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SF
R52
#1
1/6/87

NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, January 6, 1987

State Building, 350 McAllister St. #1158

AGENDA

- I. Call to Order
- II Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals

DOCUMENTS DEPT.

JAN 5 1987

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- | | | |
|----|---------------------------|--------------|
| A. | 349 Cherry St. | [H001-64(A)] |
| | (continued from 12/16/86) | |
| B. | 1400 Washington St. | [H001-68(A)] |
| C. | 1695 Northpoint St. | [H001-70(A)] |
| D. | 2647 Buchanan St. | [H001-71(A)] |
| E. | 2901 Washington St. | [H001-69(A)] |
| F. | 3212-22 26th St. | [H002-09(R)] |
| G. | 3946 Mission St. | [H001-72(A)] |
| H. | 76 Demming St. #C | [H001-73(A)] |
| I. | 25 Woodland Ave. | [H001-74(A)] |

V. Communications

2090 Broadway	[H001-19(R), H001-23(R)]
(heard 11/18/86)	through H001-41(R) &
	H001-46(R)]

VI. Director's Report

VII. Consideration of Allegations of Wrongful Evictions

VIII. Old Business

IX. New Business

X. Appeal Hearing

6:30	197 DeHaro St.	[H001-66(A)]
	(accepted 12/16/86)	

XI. Calendar Items

XII. Remarks from the Public

XIII. Adjournment

1041A (12/31/86)



3F
R52 1/6/87
#2

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, January 6, 1987
at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Payne called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present:	Alviar; Carrico; Marshall; Payne.
Commissioners not Present:	Armstrong; Chan; Curran; Waller.
Staff Present:	Hernandez; Wolf.

Commissioner How appeared on the record at 5:39 p.m. and
Commissioner Chinchilla appeared at 5:40.

III. Approval of the Minutes

MSC: To approve the Minutes of December 16, 1986 as written.
(Alviar/Marshall: 4-0.)

DOCUMENTS DEPT.

IV. Consideration of Appeals

JAN 13 1987

A. 349 Cherry Street [H001-64(A)]
(Continued from December 16, 1986)

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The hearing officer granted the landlord's capital improvement petition in the amounts requested, but noted that the landlord could have received \$9.18 instead of \$6.36 if interest had been correctly calculated on the petition. The landlord appeals based on lack of notice of the appropriate formula for interest calculation.

MSC: To remand this case to a new hearing officer for re-hearing and allow the landlord to amend the petition to correct the mistaken calculation of interest.
(Carrico/Alviar: 3-2; Chinchilla, Marshall dissenting.)

B. 1400/1406 Washington Street [H001-68(A)]

The landlord appeals the denial by the hearing officer of an additional rent increase based on operating expenses, specifically increased debt service. The issue in this case is whether Section 6.10(a) of the Rules and Regulations permits a landlord to use costs incurred, but not paid, as operating expenses. The landlord claims the interest on a loan which, under the terms of the note, was not paid but was added to the principal of the note.

MSC: To deny this appeal. (Marshall/Chinchilla: 5-0.)

C. 1695 Northpoint Street [H001-70(A)]

The landlord appeals the hearing officer's decision which grants, in part, a capital improvement pass-through, but denies certification of work that had previously been assessed to the tenants and for which the amortization period had not yet expired. The landlord maintains that the work was necessitated due to poor maintenance by the prior owner.

MSC: To remand this case to a new hearing officer to decrease the award by the amount of the capital improvement pass-through currently in effect, including interest.
(Carrico/Alviar: 5-0.)

D. 2647 Buchanan Street [H001-71(A)]

The landlord appeals the hearing officer's decision which refunds overpaid utility charges not imposed on the tenant's anniversary date and not calculated in accordance with the PG&E pass-through provisions contained in Rules and Regulations Section 1.22 (now 4.11). The landlord maintains that the utility charges imposed in January of 1982 became part of the tenant's base rent, and the hearing officer had no authority to render such increase null and void.

MSC: To deny this appeal. (Marshall/Alviar: 5-0.)

E. 2901 Washington Street [H001-69(A)]

The landlord appeals the hearing officer's decision which sets aside a 40% rent increase, determining that petitioners of seven and nineteen months are tenants covered by the protections of the Rent Ordinance. The landlord asserts that, upon the "original" tenant's vacating, the unit became decontrolled as: there was no written or oral agreement with the petitioners; rent was never accepted from petitioners by the landlord; and the landlord had no knowledge that petitioners were residing in the unit.

MSC: To accept the appeal and schedule a hearing before the Commissioners. (Chinchilla/Alviar: 5-0.)

F. 3212-22 - 26th Street [H002-09(R)]

One tenant appeals the decision of the hearing officer granting certification of certain capital improvements that the tenant maintains were unnecessary as the unit had been renovated three years previously.

MSC: To accept this appeal and schedule a hearing before the Commissioners limited to the issues of carpeting, drapes, and linoleum in this tenant's unit.
(Marshall/Chinchilla: 5-0.)

G. 3946 Mission Street [H001-72(A)]

The landlord appeals the hearing officer's decision awarding the refund of overpaid rental increases by the tenant since 1983 and PG&E charges when utilities had been paid for by the prior landlord. The tenant's 1052A

rent history was in dispute, and the landlord maintains that the base rent and overcharge figures were incorrectly calculated.

MSC: To deny this appeal. (Chinchilla/Marshall: 5-0.)

H. 76 Demming Street #C [H001-73(A)]

The landlord appeals the hearing officer's decision granting a rent reduction due to a defective gas heater. The landlord maintains that he was denied due process as the Rent Board's hearing procedures do not include subpoena power, and that subsequent to the hearing additional evidence has become available attributing the loss of the heater to actions taken by the tenant.

MSC: To deny this appeal. (Marshall/Chinchilla: 5-0.)

I. 25 Woodland Avenue [H001-74(A)]

The landlord appeals the hearing officer's decision granting a rent reduction due to service decreases tenants suffered during a period of extensive renovation on the house. The landlord maintains that the tenants had distorted the facts regarding the habitability of the unit and that the work was necessitated by a Department of Public Works inspection initiated by the tenants.

MSW: To deny this appeal. (Marshall/Chinchilla.)

MSC: To accept the appeal and schedule a hearing regarding this case and a pending eviction before the Commissioners. (Marshall/Chinchilla: 5-0.)

V. Communications

The Board received the following communications:

A. Letters from both attorneys regarding clarification of issues and procedures for the January 22, 1987 remand hearing for the case at 2090 Broadway. Staff will draft a letter in response. Prior to discussion of this communication, the following motion was made and carried:

MSC: To excuse Commissioner Carrico from consideration of this communication. (Chinchilla/Marshall: 5-0.)

B. A request for postponement of the Board hearing for the case at 298 Fair Oaks Street, which was granted by the Board.

C. A letter from a tenant regarding a previous case at 1245/California Street.

VI. Appeal Hearing

An appeal hearing was scheduled for the case at 197 De Haro Street [H001-66(A), accepted December 16, 1986] at 6:30 p.m. At 6:40 p.m., representatives for the landlord were in attendance, and a friend of the 1052A

tenant appeared to inform the Board that the tenant is currently out of the County and had been so when the Notice of Appeal Hearing was received. It was, therefore, the consensus of the Board to continue this hearing until the tenant's return.

VII. Director's Report

The Executive Director and the Board discussed implementation of the recently passed eviction amendments to the Rent Ordinance. A committee consisting of Commissioners Carrico and Marshall, along with the Deputy Director and Eviction Unit Supervisor, will meet to draft proposed regulations and a Public Hearing will be scheduled as soon as possible.

VIII. New Business

The Board briefly discussed a memo from the City Attorney regarding the requirements of the Brown Act. The Board decided to move the "Remarks from the Public" section of the agenda to immediately follow the "Director's Report."

IX. Calendar Items

January 13, 1987

5:30 Appeal Hearing (conditionally scheduled)
197 DeHaro [H001-66(A); accepted December 16]

2 Appeal Considerations

Old Business: 1) Staff report on eviction procedures (per November 18, 1986 meeting request); 2) eviction amendments to the Rent Ordinance; and 3) executive session (Parkmerced Co. v. Rent Board- originally discussed at November 18, 1986 meeting, but no record of any action taken)

January 20, 1987

9 Appeal Considerations

Appeal Hearings:

6:15 2901 Washington St. [H001-69(A); accepted January 6, 1987]

6:45 25 Woodland Ave. [H001-74(A); accepted January 6, 1987]

Old Business: 1) staff report on independent counsel for the Board (per December 16, 1986 meeting request); and 2) Eviction amendments to the Rent Ordinance.

X. Adjournment

President Payne adjourned the meeting at 7:31 p.m.



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1/13/87

NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, January 13, 1987

State Building, 350 McAllister St. #1158

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals
 - A. 1151 Post Street [H002-10(R)]
 - B. 554 19th Avenue [H001-75(A)]
- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions
- IX. Old Business
 - A. Staff Report on Eviction Procedures (per 11/18/86 meeting)
 - B. Eviction Amendments to the Rent Ordinance
 - C. Executive Session- Parkmerced Co. v. Rent Board; Abenhiem (originally discussed at 11/18/86 meeting)
- X. New Business
- IX. Appeal Hearing
 - 197 De Haro Street [H001-66(A)] (accepted 12/16/86, conditionally continued from 1/7/87)
- X. Calendar Items
- XI. Adjournment

DOCUMENTS DEPT.

JAN 13 1987

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, January 13,
1987 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call To Order

President Payne called the meeting to order at 5:38 p.m.

II. Roll Call

Commissioners Present: Alviar; Carrico; Chan; Marshall;
Payne; Waller.
Commissioners Not Present: Armstrong; Chinchilla.
Staff Present: Hernandez; Wicks.

Commissioner Curran appeared on the record at 5:39 p.m. Commissioner How appeared on the record at 5:47 p.m. Commissioner Chan went off the record at 7:26 p.m., and Commissioner Curran went off the record at 7:37 p.m.

III. Approval of the Minutes

MSC: To approve the minutes of January 6, 1987, as written.
(MSC: Marshall/Alviar: 5-0)

IV. Consideration of Appeals

A. 1151 Post Street [H002-10(R)]

The tenant appealed the Hearing Officer's decision which declined to award any rent reductions for alleged decreases in service. The tenant petitioned for a substantial reduction in rent as compensation for broken windows, leaking ceiling, leaking faucet, and peeling paint. At the hearing the landlord testified that some of the problems had been repaired, one problem occurred only once, and the tenant was not cooperative in allowing repairpersons to enter. On appeal the tenant maintained that he had never refused entry for repairs and that only one problem had been remedied.

MSC: To uphold the Hearing Officer and deny the appeal.
(Carrico/Alviar: 5-0)

B. 554-19th Avenue [H001-75(A)]

The landlord appealed the determination of the Hearing Officer which ruled null and void a rent increase for an alleged additional person. In 1964 the tenant at issue had moved into the apartment with her mother and grandparents, with the understanding that four persons could reside in the unit. After approximately ten years, the subject tenant vacated the apartment; she moved back in with her mother--the only remaining
1058A

tenant--in July 1986. Subsequently the landlord served notice of a \$200 rent increase as long as the "new" tenant resided in the apartment. The Hearing Officer found that no rent increase was in order since the terms under which the tenancy began allowed for four tenants. On appeal the owner argued that her expenses had increased with the new tenant, that the rent was far below market value, and that she might be forced to sell the property unless she received more income.

MSC: To uphold the Hearing Officer and deny the appeal.
(Marshall/Carrico: 4-1; Commissioner Payne dissenting)

V. Communications

- A. The landlord's representative for 25 Woodland Avenue requested a postponement of the appeal hearing originally scheduled for January 20, 1987. The postponement was granted.
- B. The December 1986 counseling statistics were distributed. Mr. Hernandez indicated that some of the current categories would be replaced with detailed data on eviction notices filed pursuant to the new eviction amendments.

VI. Old Business

- A. Staff Report on Eviction Procedures: Eviction Unit Supervisor Wicks gave the Commissioners an outline of procedures and analysis used in reviewing reports of alleged wrongful evictions. The topic will be calendared for the January 20, 1987 meeting in case any of the Commissioners have questions or comments.
- B. The draft Rules and procedures of the new eviction amendments were reviewed. The committee of Commissioners and Staff working on the legislation will continue to revise their work and present a further draft at the next meeting.

VII. Appeal Hearing

197 De Haro Street [H001-66(A)]

This case, continued from 1/7/87, was further continued. It will be tentatively rescheduled for January 20, 1987, pending the availability of both parties.

VIII. Calendar Items

January 20, 1987

9 Appeal Considerations

2 Appeal Hearings:

6:15 - 2901 Washington [H001-69(A)]

8:00 - 197 De Haro (tentative) [H001-66(A)]

Old Business: Eviction Amendments and Eviction Procedures

January 27, 1987

6 Appeal Considerations

2 Appeal Hearings:

6:15 - 644 Fillmore [H001-52(A) accepted December 9, 1986]

6:45 - 3212-3222 - 26th Street [H002-09(R)

accepted January 6, 1987]

Public Hearing: 7:30 - Eviction Amendments

IX. Adjournment

President Payne adjourned the meeting at 7:40 p.m.

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1/20/87

NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,
January 20, 1987*****
State Building, 350 McAllister St. #1158

AGENDA

- I. Call to Order
- II Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals

- A. 6 Locksley Ave. #1K [H001-76(A)]
- B. 252 Collingwood [H002-11(R)]
- C. 1329 Taylor St. [H001-77(A)]
- D. 660 South Van Ness Ave. [H001-78(A)]
- E. 1301 Leavenworth St. [H001-79(A)]
- F. 1453 Haight St. [H002-12(R)]
- G. 567 21st Ave. [H002-13(R)]
- H. 2206-A Steiner St. [H001-80(A)]
- I. 698 Bush St. units 407, 406, 402
(Cont. from 12/2/86) [H001-57(A)]
units 408 & 506 [H001-81(A)]

- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions
- IX. Old Business

- A. Eviction Procedures (Cont. from 1/13/87 meeting)
- B. Draft Rule Changes pursuant to Eviction Amendments
- C. Independent counsel for the Rent Board (12/16/86 meeting)

- X. New Business

- XI. Appeal Hearings

- 6:15 A. 2901 Washington St. [H001-69(A)] accepted 1/6/87
- 8:00 B. 197 DeHaro St. [H001-66(A)] accepted 12/16/86
(Tenatively cont. from 1/7/87)

- XII. Calendar Items

- XIII. Adjournment

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JAN 21 1987

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday January 20, 1987 at 5:30 p.m. at the State Building, 350 McAllister St. #1158
***** DOCUMENTS DEPT. *****

JAN 26 1987

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I. Call to Order

Vice-president Marshall called the meeting to order at 5:40 p.m.

II. Roll Call

Commissioners Present: Alviar; Carrico; Curran; Marshall; Waller.
Commissioners not Present: Armstrong; Chinchilla.
Staff Present: Hernandez; O'Hearn.

Commissioner How appeared on the record at 5:44 p.m. President Payne appeared at 5:47 p.m. and Commissioner Chan appeared at 6:10 p.m. Commissioner Curran left at 7:35 p.m.

III. Approval of the Minutes

MSC: To approve the minutes of January 13, 1987 as written. (Alviar/Carrico: 3-0.)

IV. Consideration of Appeals

A. 6 Locksley Ave. units 1K & 7D [Appeal H001-76(A)]

The landlord appeals the hearing officer's decision granting the tenants' petitions on illegal increases. When the tenants began occupancy in 1983 they each signed 6-month leases providing that the rent would be "reduced" during the first six months provided that the rent was paid and received by the 5th day of the month and that no checks were returned for insufficient funds. When the 6-month period expired, their rents remained the same on a month-to-month term. The landlord increased the rents in the summer of 1986 by the allowable annual percentage and in November 1986 by the former purported reduced amount.

MSC: To deny this appeal, but remand the case for correction of clerical inaccuracies in the hearing officer's order. (Alviar/Marshall: 4-0.)

B. 252 Collingwood St. [Appeal H002-11(R)]

The tenant attempts to appeal a Board Decision on Appeal [H001-33(A)] which was rendered on October 28, 1986 following a Board hearing on the landlord's appeal of the Decision of the Hearing Officer. The tenant failed to appear at the Board hearing and claims that she did not receive the notice of hearing which was mailed on October 15, 1986.

MSC: To deny this "appeal" based on lack of jurisdiction.
(Carrico/Alviar: 4-0.)

C. 1329 Taylor St. [Appeal H001-77(A)]

The landlord appeals the hearing officer's decision granting the tenant's petition on illegal increases. The hearing officer found the lessor (former tenant) liable for overcharges of \$1,560 and the owner liable for \$540. The owner argues that the apartment became decontrolled when the sublessor terminated his lease and that rent increases imposed by the sublessor should be allowed due to banking.

MSC: To accept the appeal and remand the case to the same hearing officer for further review of rent overcharge calculations with instructions to consider the notices of the 1986 increases and to determine an equitable liability between the two landlords.

D. 660 South Van Ness Ave. [Appeal H001-78(A)]

The landlord appeals the hearing officer's decision granting the tenants' petition for denial of the annual increase based on the landlord's failure to repair and maintain and for a rent reduction based on decrease in services due to a hole in the floor originally caused by a ceiling leak. The landlord disputes the findings of fact and the ordering of a rent rebate before the current ownership of the building.

MSF: To accept this appeal and remand the case to another hearing officer for another hearing on the decrease issue (i.e., the roof leak and hole in the floor).
(Carrico/Payne: 2-3; Alviar, Chan and Marhsall dissenting.)

MSC: To deny the appeal. (Marshall/Alviar: 3-2; Carrico and Payne dissenting.)

E. 1301 Leavenworth St. [Appeal H001-79(A)]

The landlord submitted an appeal sixteen days after the mailing of the decision. The hearing officer granted the tenant's petition based on failure to repair and maintain and on a decrease in services due to lack of heat. On appeal the landlord contests the decision based on confusion and various inaccuracies of the facts.

MSC: To deny the appeal. (Marshall/Alviar: 4-1; Payne dissenting.)

F. 1453 Haight St. [Appeal No. H002-12(R)]

The tenant submitted an appeal one day late due to his overbooked flight the previous day. He contests the hearing officer's determination that his petition based on a decrease in services is moot because of a pending court action. He argues that the hearing officer failed to understand the facts of the case in view of the rent strike resulting from damage caused by a fire.

MSF: To accept the appeal and remand the case on the decrease issues. (Marshall/Chan: 2-3; Alviar, Carrico and Payne dissenting.)

MSC: To deny the appeal. (Carrico/Alviar: 3-2; Chan and Marshall dissenting.)

G. 567 21st Avenue [Appeal H002-12(R)]

The tenants appeal the hearing officer's determination that the building is exempt from the Rent Ordinance based on new construction. Although a Certificate of Occupancy initially was issued after the adoption of the Rent Ordinance on June 13, 1979, the tenants contest the validity of that certificate. They also contest the hearing officer's determination that the tenants owe rent arrearages.

MSC: To delete the hearing officer's references to rent arrearages and to deny the appeal. (Marshall/Carrico: 5-0.)

H. 2206-A Steiner St. [Appeal H001-80(A)]

The landlord appeals the hearing officer's decision granting the tenant's petition based on a decrease in services. The landlord claims that there is no basis for the past or current reduction of the tenant's base rent and that documentary evidence was erroneously excluded.

MSC: To correct the continuing decrease amount (at page 4 of the decision) and to deny the appeal. (Marshall/Chan: 5-0.)

I. 698 Bush St.
units 407, 406 & 402 [Appeal H001-57(A)]
units 408 & 506 [Appeal H001-81(A)]

The landlords appeal three separate hearing officers' decisions. The separate appeal of the first decision was originally scheduled for the Board meeting of December 2, 1986, but was continued in order to consolidate with any other appeals of then pending cases. That appeal objects to rent reductions granted for three tenants (units 407, 406 & 402) pursuant to their petitions filed after the hearing on the landlord's increase petition. The second appeal concerns another decision on another tenant's petition (unit 408) based on a decrease in services, as well as a separate remand decision.

The remand decision was heard pursuant to appeals of both the tenants and the landlords contesting the original decision granting capital improvement increases, but denying operating and maintenance increases while also denying the tenants' defense of failure to repair and maintain without their filing separate petitions. On remand the hearing officer delayed imposition of the base rent increase only for the tenant of unit 506, until the landlord provided adequate pest control, prompt regular removal of garbage chute blockages, repainting of the sleeping room, replacement of carpet and mattress and repair of the elevator door track and emergency bell.

MSC: To deny the appeal as to the remand decision affecting unit 506 and to delete the services of pest control and garbage chute on page 5, line 6 (Conclusion of Law No. 3 a. & b.). (Marshall/Chan: 5-0.)

MSC: To accept the appeals on the other two decisions (affecting units 407, 406, 402 and 408) concerning the tenants' decrease in services petitions. (Carrico/Alviar: 3-2; Chan and Marshall dissenting.)

V. Appeal Hearings

A. 2901 Washington St. [Appeal H001-69(A)]

The Board accepted the landlord's appeal on January 6, 1987. The appeal hearing commenced at 7:13 p.m. with both the landlord and the tenant present and representing themselves. At issue was the landlord's recent rent increases from \$750 to \$900 and subsequently to \$1,050 based on an alleged new tenancy.

The hearing officer had concluded that since the tenants were "original tenants" within the meaning of the Rent Ordinance, the rent increases were invalid. Testimony at the appeal hearing focused on the length of the tenants' occupancy and the landlord's knowledge of their occupancy.

Following the hearing and discussion by the Commissioners, the Board adopted the following motion and suggested that the parties enter into a written agreement incorporating the Board's decision in this case:

MSC: To establish the rent at \$900 per month for the tenancy of no more than two persons payable beginning February 1, 1987 with an anniversary date of September 1, 1986. (Carrico/Marshall: 5-0.)

VI. Director's Report

A. The Executive Director discussed the Eviction Unit's report on pending evictions under Ordinance Section 37.9(a)(13). He also noted that such cases have separate procedures than cases arising from Reports of Alleged Wrongful Evictions.

B. The Director reported that the Mayor signed eviction amendments to the Rent Ordinance on January 15, 1987, which therefore will be effective on February 14, 1987. The Director has requested a computer program to implement those amendments, as well as previous amendments adding Ordinance Sections 37.9(a)(13) and 37.9A.

VII. Old Business

A. The Board approved the January 13, 1987 written report from the Eviction Unit Supervisor regarding a summary of eviction unit procedures.

B. The Commissioners reviewed an updated draft of proposed rule changes concerning pending eviction amendments to the Rent Ordinance.

V. Appeal Hearings (Continued)

B. 197 DeHaro St.

[Appeal H1-66(A)]

This appeal hearing, which was continued from the two previous Board meetings, commenced as scheduled at 8:00 p.m. The tenant represented herself and the landlord appeared with his attorney and another representative. The Board accepted the landlord's appeal on December 16, 1986. The hearing officer had granted the tenant's petition based on illegal rent increases entitling the tenant to reimbursement of \$2,154.80.

Following the hearing, the Commissioners discussed the landlord's lack of bad intent in imposing increases which were not in conformance with the Ordinance. As an example, the first increase imposed in March 1983 could have been lawful if imposed in April 1983 and could have been for 14% instead of 12%. While noting that the hearing officer's decision was technically and legally correct, the Commissioners decided to find an equitable solution for this particular case and therefore adopted the following motion:

MSC: To establish the current maximum base rent at \$350 per month effective October 1, 1986 and to find a total rent overcharge of \$250 with any rent owing to be paid over the next four months. (Alviar/Carrico: 5-0.)

VII. Old Business (Continued)

B. Draft Rule Changes (continued)

The Board continued its discussion and revision of draft rule changes pursuant to pending eviction amendments to the Ordinance. Since timely notice had not been issued for a public hearing tentatively scheduled for January 27, 1987, the Board set the public hearing date for February 10, 1987.

C. The Deputy Director reported to the Board on its inability to hire independent counsel because of City Charter provisions. Only the City Attorney may authorize the hiring of outside counsel.

VIII. Calendar Items

January 27, 1987

5 Appeal Considerations

2 Appeal Hearings:

6:15 - 644 Fillmore [H001-52(A) accepted December 9, 1986]

6:45 - 3212-3222 - 26th Street [H002-09(R)
accepted January 6, 1987]

February 3, 1987

4 Appeal Considerations

Community Forum

February 10, 1987

4 Appeal Considerations

1 Appeal Hearing: 6:00 - 298 Fair Oaks

[H001-63(A) accepted December 16, 1986]

1 Eviction Hearing: 6:30 - 230 Lowell St. units 3 & 4

[G136-14(E) & G136-15(E)]

Public Hearing: 8:00 Proposed Amendments to Rules &
Regulations

New Business: Election of Officers

IX. Adjournment

President Payne adjourned the meeting at 9:40 p.m.

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NOTICE OF THE REGULAR MEETING OF THE ~~SAN~~ FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, January 27, 1987

State Building, 350 McAllister St. #1158

AGENDA

DOCUMENTS DEPT.

JAN 26 1987

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- I. Call to Order
- II Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals
 - A. 830 Hayes St. H002-14(R) through H002-22(R)
 - B. 5400 Fulton St. #102 H002-23(R)
 - C. 1246 Sacramento St. H001-82(A)
 - D. 237 Masonic St. H001-83(A)
 - D. 1770 Pine St. #305 H002-24(R)
- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions
- IX. Old Business
 - Draft Rule Changes pursuant to Eviction Amendments
- X. New Business
- X. Appeal Hearings
 - 6:15 A. 644 Fillmore St. H001-52(A) (accepted 12/9/86)
 - 6:45 B. 3212-22 26th St. H002-09(R) (accepted 1/6/87)
- XI. Calendar Items
- XIII. Adjournment



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, January 27,
1987, at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Payne called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present: Alviar; Carrico; Chinchilla;
 Payne; Waller.
Commissioners not Present: Armstrong; Chan.
Staff Present: Hernandez; Wolf.

Commissioner Marshall appeared on the record at 5:39 p.m.
Commissioners Curran and How appeared at 5:40 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of January 20, 1987 as written.
 (Alviar/Carrico: 5-0.)

IV. Consideration of Appeals

A. 830 Hayes St. [H002-14(R) through H002-22(R)]

Nine tenants appeal the hearing officer's decision granting increases based on capital improvements. Rent increases due to increased operating expenses were also approved, but conditional on the landlord making certain repairs. The tenants believe that only individuals who use the garage should have to pay for new garage doors and allege that imposition of the increases would impose a hardship on elderly tenants on fixed incomes.

MSC: To accept the appeal and schedule this case for a
 hearing before the Board on the issues of certification
 of garage doors as capital improvements and tenant
 hardship. (Carrico/Chinchilla: 5-0.)

B. 5400 Fulton St. #102 [H002-23(R)]

The tenant appeals the decision of the hearing officer which found that his rent had not been illegally increased, but adjusted the amount of the PG&E pass-through. The tenant had been employed as a resident manager and, upon termination of his employment, the landlord restored the amount reduced for the provision of services in addition to banked increases not imposed. The tenant argues that the amount he was actually paying is his correct base rent, and that no banking should be allowed because his rent was regulated during the time period in question.

MSC: To deny this appeal. (Alviar/Chinchilla: 4-1; Marshall
 dissenting.)

C. 1246 Sacramento St. [H001-82(A)]

The landlord appeals the hearing officer's decision granting rent increases due to increased operating expenses, but not in the amounts petitioned for by the landlord. The owner maintains that he had been misinformed and had prorated all items not paid on a monthly basis, and that the hearing officer had misunderstood his payment of property taxes.

MSF: To deny this appeal. (Chinchilla/Alviar: 2-3; Carrico, Marshall, Payne dissenting.)

MSC: To accept the appeal and remand this case for a new hearing to clarify the debt service issue and deal with the issues raised by the landlord on appeal.
(Carrico/Marshall: 5-0)

D. 237 Masonic Ave. [H001-83(A)]

The landlord appeals the decision of the hearing officer granting a rent reduction due to the removal of access to the backyard and a common storage area. On appeal, the landlord maintains that the tenant was not entitled to the use of two storage areas and that the amount granted was excessive.

MSC: To accept the appeal and remand this case to a new hearing officer for a new hearing. (Carrico/Alviar: 5-0)

E. 1770 Pine St. #305 [H002-24(R)]

The tenant appeals the hearing officer's decision setting aside an improperly calculated PG&E pass-through which was imposed one month after imposition of the annual increase. The hearing officer gave the landlord the option of refunding any sums overpaid and imposing a proper rent increase and pass-through with new 30-day notice. The tenant's position on appeal is that the hearing officer abused his discretion by allowing the landlord to rectify the error, thereby changing his anniversary date.

MSF: To accept the appeal and remand this case with instructions to disallow imposition of a rent increase and PG&E pass-through until next year's anniversary date. (Marshall/Alviar: 2-3; Alviar, Carrico, Payne dissenting.)

MSC: To deny this appeal. (Carrico/Alviar: 3-2; Chinchilla, Marshall dissenting.)

IV. Appeal Hearings

A. 644 Fillmore St. [H001-52(A)]

The Board considered this appeal on December 2, 1986, and continued their consideration to December 9, 1986, at which time they accepted the appeal. The appeal hearing commenced at 6:47 p.m. with the landlord and the tenants present, along with counsel and witnesses.

The landlord had appealed the hearing officer's decision finding an attempted wrongful eviction and granting a rent reduction due to severe structural defects in the building. The landlord maintained that the building is owner-occupied exempt; the hearing officer found that the landlord had established documentary residency, but had failed to prove continual residency at the unit.

Testimony at the hearing focused on the landlord's assertion that he has never lived anywhere else, although he spent a good deal of time last summer in Oregon working on a house he had purchased as an investment. The tenants maintained that the landlord was on the premises a maximum of four months over the last three years, although he has been living in the building since the original hearing in this matter in August 1986, and presented photos and testimony evidencing longstanding disrepair.

The hearing concluded at 8:07 p.m. Following discussion and review of the testimony and evidence, the Commissioners made the following decision:

MSC: To vacate the hearing officer's decision and find that this property is owner-occupied exempt.
(Carrico/Alviar: 3-2; Chinchilla, Marshall dissenting.)

B. 3212-22 - 26th St. [H002-09(R)]

The Board accepted this appeal on January 6, 1987. The appeal hearing began at 8:15 p.m. with both parties present. The tenant was accompanied by a translator and a witness.

The tenant had appealed the hearing officer's decision granting certification of certain capital improvements that the tenant maintained were unnecessary as the unit had been renovated three years previously. The issues under consideration at the appeal hearing were limited to carpeting, drapes, and linoleum in the tenant's unit.

At the hearing, the tenant testified that he felt he shouldn't have to pay for things he didn't need, as the carpets were practically new when he moved in, the previous owner had put in new linoleum, and he had venetian blinds in good condition. The landlord testified that the work was necessitated by an Abatement Order from the City Attorney: that the installation of a new heating system required removal of kitchen flooring; that the linoleum was removed due to dryrot in the sub-flooring; and that the carpet and drapes were worn and shoddy. There was a dispute among the parties as to whether the tenant had objected to the work being done. Photos were entered into evidence by both sides.

The hearing concluded at 8:51 p.m. Following discussion and consideration of the testimony and evidence, the Commissioners voted as follows:

MSF: To certify the linoleum as necessary, but find the carpet and drapes unnecessary. (Chinchilla/Marshall: 2-3; Alviar, Carrico, Payne dissenting.)

MSC: To certify the cost of the linoleum, and 50% of the cost of the carpet and drapes. (Marshall/Chinchilla: 4-1; Payne dissenting.)

VI. Communications

The Board received several communications pertinent to the appeals considered at this evening's meeting and copies of the announcements for the pending Community Forum and Public Hearing.

VII. Old Business

The Commissioners briefly discussed possible additional changes to pending eviction amendments to the Rent Ordinance.

VII. New Business

President Payne inquired regarding possible amendments to the Rent Ordinance being introduced by Supervisor Britt.

IX. Executive Session

Pursuant to Government Code Section 54956.9(c), the Board discussed Superior Court case number 869-755, 2090 Broadway Associates v. Rent Board.

X. Calendar Items

February 3, 1987

4 Appeal Considerations
Community Forum

February 10, 1987

Executive Session: 2090 Broadway
5 Appeal Considerations
1 Appeal Hearing: 6:00 - 298 Fair Oaks
[H001-63(A) accepted December 16, 1986]
1 Eviction Hearing: 6:30 - 230 Lowell St. #3 & #4
[G136-14(E) & G136-15(E)]
New Business: Election of Officers
Public Hearing: 8:00 Proposed Amendments to Rules and Regulations

February 17, 1987

3 Appeal Considerations
3 Appeal Hearings:
6:00 - 25 Woodland [H001-74(A)/H002-80(E) et al.,
accepted January 6, 1987]
6:45 - 698 Bush St. #408 & #506 [H001-81(A), accepted
January 20, 1987]
7:30 - 830 Hayes St. [H002-14(R) through -22(R),
accepted January 27, 1987]

XI. Adjournment

President Payne adjourned the meeting at 9:51 p.m.



NOTICE OF COMMUNITY FORUM

THE RENT BOARD COMMISSIONERS INVITE THE PUBLIC TO ATTEND A
COMMUNITY FORUM. FOLLOWING COMPLETION OF THE MEETING AGENDA,
THE COMMISSIONERS WILL ENTERTAIN QUESTIONS AND COMMENTS FROM
THE PUBLIC.

DATE: FEBRUARY 3, 1987
TIME: 5:30 p.m. for Agenda Items
PLACE: Swedish American Hall
2174 Market Street (at Sanchez)
San Francisco

THE COMMISSIONERS ENCOURAGE ALL INTERESTED PERSONS TO ATTEND
AND EXPRESS THEIR VIEWS AND CONCERNS REGARDING EVICTIONS
AGAINST PEOPLE WITH AIDS OR ANY OTHER MATTERS RELATED TO THE
RENT LAW.



NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,
February 3, 1987

Swedish American Hall, 2174 Market Street

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals
 - A. 567 Fillmore St. [H001-84(A)]
 - B. 139 Noriega Ave. [H001-85(A)]
 - C. 1117-31 Green Street [H001-86(A)]
 - D. 141A Blake Street [H001-87(A)]
- V. Consideration of Allegation of Wrongful Eviction
 - Request for Reconsideration
 - 3686 16th Street [H003-58(E)]
- VI. Community Forum
 - Remarks from the Public
- VII. Old Business
- VIII. Calendar Items
- IX. Adjournment

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, February 3,
1987 at 5:30 p.m. at the Swedish American Hall, 2174 Market St.

I. Call to Order

President Payne called the meeting to order at 5:40 p.m.

II. Roll Call

Commissioners Present:	Alviar; Carrico; Payne; Curran.
Commissioners not Present:	Armstrong; Chan; How.
Staff Present:	Hernandez; Ruiz.

Commissioners Chinchilla and Marshall appeared on the record at 5:41 p.m. Commissioner Waller appeared at 5:43 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of January 27, 1987.
(Alviar/Payne: 4-0.)

IV. Consideration of Appeals

A. 567 Fillmore Street [H001-84(A)]

The landlord appeals the decision of the hearing officer granting a one-time rent reduction for the loss of service of the refrigerator. The landlord maintains that he is not appealing the award to the tenant, but the mathematical formula applied in determining the amount of the award.

MSC: To accept the appeal and remand the case to the same hearing officer for technical correction.
(Carrico/Alviar: 5-0.)

B. 139 Noriega Ave. [H001-85(A)]

The landlord appeals the decision of the hearing officer disallowing a rent increase until repairs are done and a new proper notice of rent increase is issued. The tenant petitioned regarding the landlord's alleged failure to do requested repair and maintenance and a substantial decrease in housing services. The landlord alleges that she did not have notice of the hearing because she was out of the country.

MSC: To accept the appeal and remand to another hearing officer. (Chinchilla/Carrico: 5-0.)

C. 1117-1131 Green Street [H001-86(A)]

The landlord appeals the hearing officer's decision regarding his petition for rent increases based on capital improvements and operating and maintenance expenses. The landlord claims that the hearing officer used the incorrect sum of 14, instead of 13 units in calculating the increase.

MSC: To deny this appeal. (Chinchilla/Marshall: 5-0.)

D. 141A Blake Street [H001-87(A)]

The landlord appeals the hearing officer's decision on second remand [No. H001-88(R)]. The hearing officer previously issued a decision on remand [No. G040-85(A)] in this case on October 7, 1986, determining that the tenant petitioners were paying for hot water to the upstairs apartment. The issue on second remand was the amount the tenants should be reimbursed by the landlord for gas bills. The hearing officer granted the tenants a rent reduction for as long as their gas bill included costs for more than their unit. The landlord maintains that the tenants have not met their burden of proof.

MSC: To deny this appeal. (Chinchilla/Marshall: 3-2; Carrico and Payne dissenting.)

V. Consideration of Allegation of Wrongful Eviction

Request for Reconsideration:
3686-16th Street [H003-58(E)]

The tenant requests reconsideration of the recommendation of the hearing officer who found that the property in which the tenant resides is exempt from the Ordinance. The tenant maintains that the property is an integrated apartment house complex of 10 units with 40 rooms, and has been known and legally described and documented by the Department of Public Works as one (1) building since 1976.

MSC: To postpone consideration of this case to February 10, 1987. (Alviar/Carrico: 5-0.)

VI. Community Forum

The Commissioners of the Rent Board entered a discussion with the public on a variety of subjects related to wrongful eviction of people with AIDS and discrimination of tenants stricken by this disease.

VII. Old Business

The Board received a copy of the press release of the amendments to the Rent Ordinance being introduced by Supervisor Britt.

VIII. Calendar Items

February 10, 1987

Executive Session: 2090 Broadway Associates and Parkmerced Co.

5 Appeal Considerations

6:00 1 Appeal Hearing: 298 Fair Oaks [H001-63(A) accepted 12/16/86]

6:30 1 Eviction Hearing: 230 Lowell St., #2 & #4 [G136-14(E) & 15(E)]

New Business: Election of Officers

8:00 Public Hearing: Proposed Amendments to Rules and Regulations

February 17, 1987

3 Appeal Considerations

3 Appeal Hearings:

6:00 25 Woodland [H001-74(A)/H002-80(E) accepted 1/6/87]

6:45 698 Bush Street units 402, 406, 407 & 408

[H001-57(A) H001-81(A) accepted 1/20/87]

7:30 830 Hayes Street [H002-14(R) through H002-22(R) accepted 1/27/87]

IX. Adjournment

President Payne adjourned the meeting at 6:45 p.m.



NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,
February 10, 1987

State Building, 350 McAllister St. #1158

AGENDA

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- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Executive Session
 - A. 2090 Broadway Associates v. Rent Board, No. 869-755
 - B. Parkmerced Co. v. Rent Board, No. 866-261
- V. New Business
Election of Officers
- VI. Consideration of Appeals
 - A. 1238 20th Ave. [H001-88(A)]
 - B. 730 22nd St. [H002-25(R)]
 - C. 110 Portola Dr. units 1 & 2 [H001-90(A)]
 - D. 516 Ellis St. #206 [H001-91(A)]
- VII. Communications
- VIII. Director's Report
- IX. Appeal Hearing
 - 6:00 298 Fair Oaks Ave. [H001-62(A) accepted 12/16/86]
- X. Consideration of Allegations of Wrongful Evictions
 - A. Request for Reconsideration (cont. from 2/3/87)
3686 16th St. [H003-58(E)]
 - B. Hearing
 - 6:30 230 Lowell Ave. units 3 & 4 [G136-14(E) & G136-15(E)]
- XI. Public Hearing
 - 8:00 Amendments to Rules & Regulations Section 3.10 and Part 12
to correspond with recent amendments to Ordinance
- XII. Old Business
- XIII. Calendar Items
- XIV. Adjournment

1
2
3 CITY AND COUNTY OF SAN FRANCISCO
4 RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD
5

6 DOCUMENTS DEPT.

7 NOV 20 2000

8 SAN FRANCISCO
9 PUBLIC LIBRARY

10 PROPOSED CHANGES TO
11 RULES AND REGULATIONS
12

13 * * * * *

14 PUBLIC HEARING: February 10, 1987, 8:00 p.m.

15 State Building, room 1158
16 350 McAllister Street
17 (between Polk and Larkin)
18 San Francisco, California

19 NOTE: Proposed deletions are within brackets and
20 proposed additions are underlined or preceded by "[NEW]."
21

22 Board Office: 170 Fell Street, Room 16
23 San Francisco, California 94102
24 Telephone 621 RENT

25 Open Mon., Wed. & Fri. 8:30 - 5:00
26 Tues. & Thurs. 8:30 - 1:00
27
28

DRAFT REGULATIONS

CONCERNING PENDING AMENDMENTS TO ORDINANCE SECTIONS 37.9(c) & 37.9(a)(11)

PART 3 FEES

Section 3.10 Amount of Fees

[NEW] (d) Landlord Petition for Extension of Time

(1) For petitions filed pursuant to Section 12.15(d) below for approval of tenant displacement for more than three months, the filing fee shall be \$20.00 for each rental unit included in the petition, but not to exceed \$400.00 for any single petition. A separate petition shall be filed for each individual building.

(2) Further, depending on the number of units in the building for which the landlord seeks an extension of time, there shall be an additional charge of the following to cover hearing officer fees:

(A)	1	-	10	units	=	\$ 30.00
(B)	11	-	25	"	=	\$ 60.00
(C)	26	-	50	"	=	\$ 90.00
(D)	51	-	100	"	=	\$120.00
(E)	101	+		"	=	\$150.00

(3) Should it become necessary for the landlord to seek an additional extension of time for any unit for which a petition previously was filed, the landlord may re-open the previous petition upon written request to the Board without payment of additional filing fees.

PART 12 [LEGAL] ACTIONS UNDER ORDINANCE SECTION

37.9[(e)]

Section 12.15 [Notices] Evictions Regarding Capital
Improvement or Rehabilitation Work

(a) For purposes of an eviction under Section 37.9(a)(11) of the Ordinance, the capital improvement and/or rehabilitation work to be done must involve work that would make the unit hazardous, unhealthy, and/or uninhabitable while work is in progress. If there is a dispute between the landlord and the tenant as to whether the work that is to be performed creates a hazardous or unhealthy environment, the tenant may file a report of alleged wrongful eviction with the Board [to hear the matter].

(b) Copies of all necessary permits, a description of work to be done and a reasonable approximate date (month and year) when the tenant can re-occupy the unit shall be given to the tenant [prior to or along with] on or before the date of service of the notice to vacate. On or before the date of service of the notice to vacate, the landlord also must advise the tenant in writing that the permit application and the rehabilitation or capital improvement plans, if required by the Bureau of Building Inspection, are on file with the Central Permit Bureau of the Department of Public Works located at 450 McAllister Street and arrangements may be made to review such applications or plans. The tenant will vacate the unit only for the minimum time required to do the work as stated in the notice, not to exceed three months, unless the time is extended by the Board upon petition by the landlord pursuant to subsection (d) below.

1 [NEW] (c) Moving Costs

2 Any landlord who seeks to recover possession of a unit
3 pursuant to Section 37.9(a)(11) of the Ordinance shall pay each
4 tenant of the unit the actual costs of such tenant's moving and
5 relocation expenses set forth below, up to \$1,000.00. The
6 landlord shall make such payments to the tenant not less than ten
7 days prior to recovery of possession by the landlord and/or within
8 ten (10) days of the tenant establishing the actual costs of
9 moving.

10 The moving and relocation expenses for which a tenant
11 shall be reimbursed include, but are not limited to, the following
12 expenses reasonably related to the tenant's move from, as well as
13 back to the unit following completion of capital improvement or
14 rehabilitation work by the landlord:

15 (1) transportation of persons and property to and
16 from the unit from which the tenant is displaced;

17 (2) packing, crating, unpacking and uncrating
18 personal property;

19 (3) such storage of personal property as is
20 necessary in connection with relocation;

21 (4) insurance of personal property while in storage
22 or transit;

23 (5) the reasonable replacement value of property
24 lost, stolen, or damaged (through no fault or negligence of the
25 tenant) in the process of moving, if not otherwise reimbursed;

26 (6) the cost of disconnecting, dismantling,
27 removing, reassembling, reconnecting and reinstalling personal
28 property, including connection charges imposed by public

1 utilities for starting utility service;

2 (7) The difference in rent for the period of
3 displacement calculated by subtracting the monthly rent paid by
4 the tenant for the unit from which the tenant is being displaced
5 from the monthly rent to be paid by the tenant in the unit to
6 which he or she is moving; and

7 [DISCUSSION?] (8) The amount of security deposit as defined
8 under California Civil Code Section 1950.5 to be paid by the
9 tenant for the unit to which he or she is moving.

10 [NEW] (d) Landlord's Petition for Extension of Time

11 (1) Before giving the notice to vacate, if the
12 landlord knows or should know that the work will require the
13 removal of the tenant(s) for more than the three months
14 authorized under Ordinance Section 37.9(a)(11), the landlord
15 shall petition the Rent Board for approval of displacement for
16 more than three months. The petition shall include the
17 appropriate filing fee pursuant to Section 3.10(d) above and one
18 original and copies for each involved tenant of the following
19 documents:

20 (A) A completed petition form;

21 (B) Copies of all necessary building
22 permits, showing approval has been granted;

23 (C) A written breakdown of the work to be
24 performed, detailing where the work will be done and the cost of
25 the work;

26 (D) An estimate of the time needed to
27 accomplish the work and approximate date (month and day) each
28 involved tenant may reoccupy.

1 (2) If, after the notice to vacate has been given
2 or after the work has commenced, it is apparent that the work
3 will take longer than the three months authorized under Section
4 37.9(a)(11) or longer than the time approved by the Board, the
5 landlord immediately shall file a petition pursuant to subsection
6 (d)(1) above, along with a statement of why the work will require
7 more time.

8 (3) A hearing on the landlord's petition shall be
9 scheduled within 30 days of the date of filing the petition and
10 conducted pursuant to Part 11 of these Rules and Regulations.
11 The hearing officer shall render a written decision as to the
12 reasonableness of the landlord's time estimate. The tenants or
13 the landlord may appeal this determination by filing an appeal
14 with the Commissioners pursuant to Ordinance Section 37.8(f).

15 [NEW] (e) Nothing in this section shall preclude a tenant from
16 filing a wrongful eviction report with the Board.

17 Section 12.16 [Rents on] Re-occupancy Following Evictions
18 Under Section 37.9(a)(11)

19 (Formerly Section 12.15)

20 (a) Where a tenant has vacated a unit to allow a
21 landlord to carry out capital improvements or rehabilitation
22 work, pursuant to Section 37.9(a)(11) of the Ordinance, the
23 landlord shall advise the tenant, in writing, immediately on
24 completion of the improvements, and shall allow the tenant to
25 reoccupy the unit as soon as the improvements or rehabilitation
26 work is completed, and shall not increase the rent for such
27 reoccupancy by more than the limitations set forth in Section 4
28 above.

1 [NEW] (b) If the time period allowed to perform the work
2 pursuant to Section 12.15 above has passed and the landlord has
3 not informed the tenant that the unit is ready for reoccupancy,
4 the tenant may file a decrease in service petition and/or a
5 Report of Alleged Wrongful Eviction. Upon a proper showing, the
6 tenant may be awarded a rent reduction to correspond with the
7 decrease in services calculated by the difference between the
8 monthly rent formerly paid for the unit from which the tenant was
9 displaced and the monthly rent paid for the replacement unit.

10 [NEW] Section 12.17 Notices to Vacate Filed with the Board

11 At the time of filing, the Board shall make no
12 determination as to the legal sufficiency of notices to vacate
13 filed pursuant to Ordinance Section 37.9(c) or procedures used
14 pursuant to the Ordinance or state law.

RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD

FEBRUARY 10, 1987

THE MINUTES FOR THIS MEETING ARE MISSING



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, February 17,
1987 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Marshall called the meeting to order at 5:39 p.m.

II. Roll Call

Commissioners Present: Carrico; Curran; How; Marshall
Commissioners not Present: Alviar; Armstrong; Chan;
Chinchilla; Waller.
Staff Present: Hernandez; Wolf.

Commissioner Payne appeared on the record at 5:56 p.m. and went
off the record at 8:50 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of February 10, 1987 as written
(Carrico/Curran: 3-0).

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IV. Consideration of Appeals

FEB 26 1987

A. 769 Haight Street #5

[H001-89(A)]

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The landlords appeal the decision of the hearing officer
granting certification of certain capital improvements, but disallowing
others. The landlords allege on appeal that the hearing officer based
her decision on erroneous information regarding the tenants' rent
histories.

MSC: To accept the appeal and remand this case to the same
hearing officer regarding the issues of the smoke alarm
and relevant dates of tenancy and to determine whether
a technical correction or new hearing is necessary
(Curran/Carrico: 3-0).

B. 565 Haight Street

[H001-92(A)]

The landlord appeals the hearing officer's decision granting
tenant a rent reduction due to the landlord's refusal to grant approval
for a co-tenant. The landlord maintains that the hearing officer erred
in finding that such refusal constitutes decreased housing services; in
holding that such consent must be withheld only as is "reasonable"; and
in the amount of the award.

MSC: To excuse Commissioner Carrico from consideration of
this appeal (Curran/Marshall: 3-0).

MSC: To accept the appeal and schedule this case for a hearing before the Commissioners (Curran/How: 3-0).

C. 1701 Vallejo Street [H001-93(A)]

The landlord appeals the decision of the hearing officer granting four tenants rent reductions due to habitability problems in their units. The landlord maintains that he was denied due process because he assumed that his request for a postponement had been granted, and therefore, did not appear at the hearing.

MSC: To accept the appeal and remand this case to the same hearing officer for a new hearing (Carrico/Curran: 3-0).

D. 255 Steiner Street #104 [H002-26(R)]

The tenant appeals the hearing officer's decision granting increases based on capital improvements and increased operating expenses. The tenant alleges that the approved increase would impose a considerable financial hardship and that her garage rent has been increased unlawfully since 1982.

MSC: To accept the appeal and schedule this case for a Board hearing on the issues raised by the tenant in her appeal (Curran/Carrico: 3-0).

E. 80 Monterey Blvd. [H001-94(A)]

The landlord in this case filed a petition requesting certification of capital improvements which was granted, in part, by the hearing officer. The tenant filed a petition concurrently regarding decreased housing services, and was granted a rent reduction for a leaky roof and broken sewage pipe. The landlord maintains on appeal that repair items disallowed by the hearing officer are actually capital improvements, and that there were no decreased housing services.

MSC: To accept the appeal and remand this case to another hearing officer for a hearing on the issues raised in the landlord's appeal (Payne/Carrico: 4-0).

F. 820 Stanyan Street [H001-95(A)]

The landlord appeals the decision of the hearing officer granting a large rent increase based on extensive capital improvements, but denying a determination that the building had undergone substantial rehabilitation. The hearing officer found that the landlord had failed to meet their burden of proof that the building had been condemned. On appeal the landlord maintains that the Department of Public Works had misplaced the documentation regarding this building, and therefore it was impossible to produce the abatement order proving condemnation.

MSF: To accept the appeal and schedule this case for a hearing before the Board (Payne/Carrico: 2-2; Curran and Marshall dissenting).

Due to the lack of consensus, consideration of this appeal was continued for one week.

G. 1012 Masonic Street #2 [H002-27(R)]

The landlord originally filed for certification of capital improvements, which was granted as modified by the hearing officer. The hearing officer divided the allocation of the cost of new back stairs among all six units in the building, rather than the three units petitioned for. This decision was appealed by both the landlord and the tenants. The remand decision divided the cost of the stairs among three units only, as only these units have access to the stairs. Two tenants appeal the decision on remand due to alleged deferred maintenance on the part of the prior landlord.

MSC: To excuse Commissioner Carrico from consideration of this appeal (Curran/Payne: 4-0).

MSC: To deny this appeal (Curran/How: 4-0).

V. Appeal Hearings

A. 25 Woodland Avenue [H001-74(A)]

The Board accepted the landlord's appeal and consideration of a pending eviction on January 6, 1987. The hearing commenced at 6:24 p.m. The landlord appeared, accompanied by his attorney. Six tenants appeared, also represented by counsel.

Testimony focused on severe habitability problems tenants experienced during a period of extensive renovation on the house, for which they had been granted rent reductions by the hearing officer. The landlord's position was that the building was undergoing substantial rehabilitation, and that the work was necessitated by a Department of Public Works inspection. The tenants' position was that the landlord had improperly attempted to evict them, without the proper permits, and then allowed conditions to deteriorate such as to cause a constructive eviction.

The house is currently vacant and an Unlawful Detainer action is pending, although the tenants assert their right to reoccupy. After termination of the hearing at 7:36 p.m., the Commissioners discussed the case and made the following motion:

MSC: To uphold the hearing officer's decision regarding awards given until November 11, 1986 and to reverse the hearing officer and grant a 100% rent reduction for the period November 11, 1986 through December 4, 1986.

Additionally, although there is substantial evidence of an intent to wrongfully evict these tenants, the Board will make no finding at this time but will continue to monitor this case pending the outcome of the Unlawful Detainer action (Curran/Carrico: 3-0).

B. 698 Bush Street, units #402, 406, 407 & 408
[H001-57(A) & H001-81(A)]

The landlords appealed two separate hearing officer's decisions. The appeal of the first decision was originally scheduled for the Board meeting of December 2, 1986, but was continued in order to consolidate with any other appeals of then pending cases. That appeal objects to rent reductions granted for three tenants (units 407, 406 and 402) pursuant to their petitions filed after the hearing on the landlords' increase petition. The second appeal concerns another decision on another tenant's petition (unit 408) based on a decrease in services.

The hearing commenced at 7:49 p.m. The landlord appeared, accompanied by his attorney and several witnesses. Two tenants appeared, the tenant in unit #406 authorized to represent the tenant in unit #402, and the tenant in unit #407 represented by a friend.

Testimony focused on the repair problems experienced by the tenants, for which they had been granted rent reductions by two hearing officers. The tenants' complaints mainly concerned a frequently clogged garbage chute, cracks in ceilings and walls of units, replacement of a refrigerator and mattress in unit #408, periodic elevator malfunction, vibrations in unit #406, and roach infestation. The landlord's response and evidence attempted to demonstrate that: any problems that existed were not the result of a lack of maintenance but, rather, that maintenance had significantly increased under new ownership; that the alleged problems were not substantial so as to warrant a decreased services award; and that no attempt to effectuate a rent increase by decreasing services existed in this case.

After termination of the hearing at 9:00 p.m. the Commissioners discussed the case and made the following motion:

MSC: To reverse the hearing officer's decision and find that no decrease in services exists in this case, but to deny the imposition of the next allowable annual increase if the units are not painted by that time, provided that reasonable access is given (Curran/Carrico: 3-0).

C. 830 Hayes Street [H001-14(R) through H001-22(R)]

The Board accepted the tenants' appeals on the issues of financial hardship and allocation of the cost of new garage doors as a capital improvement. Eight tenants appeared, accompanied by their representative; the landlord appeared with her property manager. The hearing commenced at 9:09 p.m.

The tenants' testimony focused on determining which tenants had cars and use of the garage, and documentation of income, assets and liabilities for purposes of the hardship claim. The landlord expressed concern regarding the tenants' situations, but also feels that the rents are still low and disallowing rent increases may provide a disincentive for making necessary improvements in the future.

The hearing terminated at 10:02 p.m. After discussion with the parties, it was the consensus of the Board to postpone making a determination on the hardship issue for one week so that the parties can try and reach an agreement. The following motion was also voted on and carried:

MSC: Given the low income and demonstrated financial hardship of tenants in this building who don't have cars, the capital improvement pass-through for the new garage doors shall be allocated to tenants who have cars only, to be paid on the basis of the number of spaces used (Carrico/Curran: 3-0).

VII. Communications

The Board received the following:

- A. Several items regarding appeals calendared on this evening's Agenda.
- B. Final amended regulations to accompany amended Sections 37.9(c) and 37.9(a)(11) of the Rent Ordinance.
- C. Announcement of a Community Meeting to discuss proposed Citywide live/work zoning legislation for artist housing on February 26, 1987.
- D. Two articles regarding rent control.

VII. Director's Report

The Executive Director informed the Board that the AAA Shipyards is closing and tenants of 15-25 residential units have been given 30-day notices to vacate. As the property is owned by the Navy, there is a question as to whether the Rent Ordinance covers these units.

MSC: To request a legal opinion from the City Attorney as to whether these units come under Rent Board jurisdiction (Carrico/Curran: 3-0).

VIII. New Business

Possible draft language has been formulated by Commissioner Curran regarding criteria for application of the owner-occupancy exemption, to be discussed by the Board at a future time.

IV. Calendar Items

February 24, 1987

4 appeal considerations (one continued from 2/17)..
1 appeal hearing: 1238 20th Avenue (accepted 2/10/87).
1 eviction hearing: 230 Lowell Avenue #3 & #4
(postponed from 2/10/87).
Old Business: 830 Hayes Street (heard 2/17/87)

March 3, 1987

3 appeal considerations

2 appeal hearings: 565 Haight (accepted 2/17/87)

255 Steiner #104 (accepted 2/17/87)

Old Business: Possible Aids regulations.

V. Adjournment

President Marshall adjourned the meeting at 10:30 p.m.



NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,

February 24, 1987

State Building, 350 McAllister St. #1158

AGENDA

I. Call to Order

II Roll Call

III. Approval of the Minutes

IV. Consideration of Appeals

- A. 820 Stanyan St. [H001-95(A)]
(Cont. from Feb. 17, 1987)
B. 536 Leavenworth St. [H001-96(A)]
C. 555 O'Farrell St. #602 [H002-28(R)]
D. 1878 Market St. #310 [H002-29(R)]

V. Communications

VI. Director's Report

VII. Remarks from the Public

VIII. Consideration of Allegations of Wrongful Evictions

Hearing: 230 Lowell Ave. #3 & #4
(Cont. from Feb. 10, 1987) [G136-14(E) & G136-15(E)]

IX. Old Business

830 Hayes St. [H001-14(R) through H001-22(R)]
(Cont. from Feb. 17, 1987)

X. New Business

XI. Appeal Hearing

1238 20th Ave. [H001-88(A)]
(accepted Feb. 10, 1987)

XII. Calendar Items

XIII. Adjournment

1087A

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, February 24,
1987, at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Marshall called the meeting to order at 5:44 p.m.

II. Roll Call

Commissioners Present: Carrico; Curran; Marshall; Waller.
Commissioners not Present: Alviar; Armstrong; Chan;
Chinchilla; How; Payne.
Staff Present: Hernandez.

III. Approval of the Minutes

MSC: To approve the minutes of February 17 with the following
correction on page five, 830 Hayes Street: ". . . the
new garage doors shall be divided by fourteen stalls and
allocated to the garage occupants by stalls."
(Curran/Carrico: 3-0)

IV. Considerations of Appeals

A. 820 Stanyan Street [H001-95(A)]

The landlord appeals the decision of the hearing officer granting
a large rent increase based on extensive capital improvements, but
denying a determination that the building had undergone substantial
rehabilitation. The hearing officer found that the landlord had failed
to prove that the building had been condemned. On appeal the landlord
maintains that the Department of Public Works had misplaced the
documentation regarding this building, and therefore, it was impossible
to produce the abatement order proving condemnation.

MSC: To continue this matter for another week as there is no
consensus between the Commissioners present.
(Carrico/Curran: 3-0)

B. 536 Leavenworth Street [H001-96(A)]

The landlord petitioned for increases based on increased
operating expenses, which were granted by the hearing officer. The
decision also declared rent increases for two tenants in 1983 null and
void because they were in excess of the allowable amount, and ordered
refunds of sums overpaid by the tenants. The landlord claims on appeal
that any sums in excess of the allowable amount were for payment of
tenants' newspaper subscriptions, and were not in fact rent increases.

MSC: To accept the appeal and remand the case to the same hearing officer with instructions to review the ledgers and documentation provided by appellant, and to respond to the two issues in the appeal. Further, the hearing officer is instructed to incorporate the technical corrections outlined in the letter submitted.
(Carrico/Curran: 3-0)

C. 555 O'Farrell Street #602 [H002-28(R)]

The tenant appeals the hearing officer's decision that she had failed to meet her burden of proof regarding claimed decreased housing services. The tenant complained of lack of heat and hot water, and disrepair of her gas stove, but provided no documentation of needed repairs.

MSC: To deny this appeal. (Curran/Carrico: 3-0)

D. 1878 Market Street #310 [H002-29(R)]

The tenant appeals the hearing officer's decision refunding him a rent increase imposed prior to the anniversary date and allowing the landlord to impose banked increases at the proper time. The tenant maintains that his base rent figure, arrived at through a 1984 Conciliation Agreement, was achieved under duress.

MSC: To deny this appeal. (Curran/Carrico: 3-0)

V. Communications

The Commissioners received their new conflict of interest forms (730) for completion before April 15, 1987.

VI. Director's Report

The Executive Director requested clear guidelines from the Board on its viewpoint on the proposed Citywide live/work zoning legislation for artist housing which will be discussed at Caffe Soma on Thursday, February 26, 1987.

VII. Old Business

A. Commissioner Curran requested that the agenda for the next meeting include a discussion of his suggested owner-occupancy Rules & Regulations.

B. 830 Hayes Street [H001-17(R) through H001-22(R)]
(Continued from February 17, 1987)

MSC: To continue this matter pending a possible settlement between the parties. (Curran/Carrico: 3-0)

VIII. Consideration of Allegation of Wrongful Eviction

The Commissioners received a written postponement request from the attorney for one of the tenants involved in the eviction matter [230 Lowell Ave. #3 & #4, Nos. G136-14(E) & G136-15(E)] scheduled for hearing during this meeting.

MSC: To grant the postponement request. (Carrico/Curran: 3-0)

IX. New Business

Commissioner Carrico requested clarification on the proposed "AIDS" regulations.

X. Appeal Hearing

1238 20th Avenue [H001-88(A)]

The Board accepted the landlord's appeal on February 10, 1987. The hearing commenced at 6:15 p.m. The landlord appeared accompanied by his son-in-law. The husband and wife tenants appeared.

Testimony focused on the parties' different interpretations of the rent history and the reason for their actions. The tenants also brought up minor habitability problems. After termination of the hearing at 7:00 p.m., the Commissioners offered the parties a chance to negotiate a settlement. This offer was accepted and the Board's decision was continued until next week.

XI. Calendar Items

March 3, 1987

5 appeal considerations (1 continued from 2/17/87)
2 appeal hearings: 567 Haight (accepted 2/17/87);
255 Steiner #104 (accepted 2/17/87)
Old Business: 830 Hayes Street (heard 2/17/87);
1238 - 20th Avenue (heard 2/24/87);
Possible "AIDS" Regulations;
Possible Owner-Occupancy Regulations

March 10, 1987

4 appeal considerations

XII. Adjournment

President Marshall adjourned the meeting at 7:05 p.m.

NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,

March 3, 1987

2/24/87

State Building, 350 McAllister St. #1158

AGENDA

- I. Call to Order
- II Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals
 - A. 820 Stanyan St. [H001-95(A)]
(Cont. from Feb. 24, 1986)
 - B. 19-A & 21 Harriet St. [H001-97(A)]
 - C. 670 Monterey Blvd. #3 [H002-30(R)]
 - D. 145 Laurel St. [H001-98(A)]
 - E. 1111 Jones St. [H001-99(A)]
units 1, 2, 6, 10 & 12
- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions
- IX. Old Business
 - A. 830 Hayes St. [H001-14(R) through H001-22(R)]
(Appeal hearing Feb. 17, 1987)
 - B. 1238 20th Avenue [H001-88(A)]
(Appeal hearing Feb. 24, 1986)
 - C. Possible "AIDS" Regulations
 - D. Possible Owner-Occupancy Regulations
- X. New Business
- XI. Appeal Hearings
 - 6:00 A. 565 Haight St. [H001-92(A)] accepted 2/17/87
 - 6:30 B. 255 Steiner St. #104 [H002-26(R)] accepted 2/17/87
- XII. Calendar Items
- XIII. Adjournment



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, March 3, 1987
at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Marshall called the meeting to order at 5:37 p.m.

II. Roll Call

Commissioners Present: Chan; Chinchilla; Curran;
Marshall.
Commissioners not Present: Alviar; Armstrong; Waller.
Staff Present: Hernandez; O'Hearn.

Commissioners Payne and How appeared at 5:39 and 5:41 p.m.
respectively. Commissioner Chan left at 6:00 p.m.

III. Approval of the Minutes

MSC: To approve the minutes of February 24, 1987 as
written. (Curran/Chinchilla: 3-0)

IV. Consideration of Appeals

A. 820 Stanyan Street [H001-95(A)]

This appeal was continued from the previous two meetings due to a lack
of consensus among the voting Board members present.

MSC: To deny the appeal. (Curran/Chinchilla: 3-0)

B. 19-A & 21 Harriet Street [H001-97(A)]

Stating that illness prevented her from attending the hearing on
November 24, 1986, the landlord submitted an appeal 37 days after the
mailing of the decision. The landlord's attorney who filed the appeal
represented the landlord at the hearing. The appeal claims nonpayment
of rent is not reflected in the rent reduction award and tenant refusal
to give notice and allow inspection of repairs.

MSC: To accept the appeal and remand the case for another
hearing before another hearing officer. (Payne/Curran:
5-0)

C. 670 Monterey Blvd. #3 [H002-30(R)]

The tenant appeals the hearing officer's decision denying his petition
which alleged an illegal increase. The tenant contends that the new
rent paid after he was lawfully evicted should be considered null and
void because there was no actual vacancy on his apartment.

MSC: To deny the appeal. (Chinchilla/Curran: 5-0)

D. 145 Laurel Street [H001-98(A)]

The landlord appeals the hearing officer's decision on the consolidated petitions of the landlord and of 5 of the 7 tenants affected by the landlord's petition. The landlord disputes the one-time rent decreases (including the calculations) and various determinations on the proposed capital improvement increase.

MSC: To accept the appeal and remand the case to the hearing officer for correction of numerical errors only.
(Curran/Chinchilla: 4-1; Payne dissenting)

E. 1111 Jones Street [H001-99(A)]
Units 1, 2, 6, 10 & 12

The landlord appeals the hearing officer's decision granting the five tenants' petitions for rent reductions based on decreased housing services including lack of heat. The landlord claims various abuses of discretion with regard to each of the awards, in addition to noting that several of the problems have been abated.

MSC: To accept the appeal and remand the case for another hearing before another hearing officer with instructions to focus on the appeal claims, including the court award to the former tenants of unit 1, the installation of the new boiler, the insignificance of leaky faucets, and the lack of access for repairs.
(Payne/Curran: 4-1; Marshall dissenting)

V. Communications

A. The parties for the appeal hearing concerning 565 Haight St. [Appeal H001-92(A)] scheduled for this meeting contacted the Executive Director who granted their request for a postponement pending settlement of the matter.

B. The Board received and approved with modification the appeal decision for 298 Fair Oaks St. [H001-62(A)] heard on February 10, 1987.

VI. Director's Report

A. The Executive Director presented the annual report to the Mayor and the Board of Supervisors concerning the notices to vacate filed with the Rent Board pursuant to recent eviction amendments to the Rent Ordinance. The Commissioners approved the report which covers the period from February 14, 1987 to March 1, 1987.

B. The Deputy Director reported on the February 26th Community Meeting on proposed citywide artists live/work zoning legislation sponsored by the Planning Department. In light of discussion and questions at the meeting, the Planning Coordinator (Susana Montana) agreed to schedule another meeting in about a month to focus solely on the issues related to the Rent Law.

Supervisor Maher introduced the legislation to the Board of Supervisors on March 2, 1987. Pursuant to the Rent Board Commissioners' request, a follow-up letter to the Mayor will be drafted for next week's Board meeting.

VII. Remarks from the Public

Upon the request by the attorney for the tenants involved in the appeal concerning 19-A & 21 Harriet Street [Appeal H001-97(A)] for comments on the decision earlier in the meeting to remand the case, the Commissioners directed her to contact Board staff.

VIII. Old Business

A. 830 Hayes St. [H001-14(R) through H001-22(R)]

The appeal hearing was held before the Board on February 17, 1987, the Board continued final disposition of the matter pending a possible settlement. The tenants' representative who had submitted the agreement signed by the tenants appeared at this meeting, later accompanied by the tenants. However, the landlord, who had not signed the settlement agreement, was not present. Therefore, the Board continued this matter to the next Board meeting pending verification of rent payments and execution of the settlement agreement.

B. 1238 20th Avenue [H001-88(A)]

Following the appeal hearing on February 24, 1987, the Board continued this matter pending settlement negotiations by the parties. The Board subsequently received a copy of the rent history and adjustments agreed upon by the landlord and the tenants.

MSC: To accept the settlement terms agreed to by the parties and incorporate them in the appeal decision. (Curran/How: 5-0)

C. Possible "AIDS" regulations

Commissioner Payne requested a two-week postponement of the discussion on this issue in order for the subcommittee to meet and possibly prepare a draft of proposed regulations.

D. Possible Owner-Occupancy Regulations

Commissioner Curran discussed proposed standards of occupancy to apply after establishment of the initial 6-month period exempting the property from the Rent Law. He requested that the draft regulations be included in the next packet of proposed amendments to the Rules and Regulations.

IX. Appeal Hearing

255 Steiner St. #104

[H002-26(R)]

The Board accepted this tenant's appeal on February 17, 1987 and the tenant appeared at the scheduled 6:30 p.m. hearing. Since no one appeared on behalf of the landlord by 7:00 p.m., the Executive Director telephoned the property manager who informed him that he was unaware of this case. The Board therefore postponed the hearing.

X. New Business

A. The Executive Director reported that Supervisor Britt's proposal amending the Rent Ordinance to require a 26% ownership interest in order to evict for owner-occupancy is scheduled before the Board of Supervisors on March 9, 1987.

B. The Executive Director also noted the upcoming Special Election on April 7, 1987. The Board therefore will not schedule a Board meeting on that date.

C. The Commissioners requested that the property address be included on appeal documents for their consideration.

XI. Calendar Items

March 10, 1987

4 appeal considerations

Old Business: 830 Hayes St. (heard 2/17/87)

March 17, 1987

4 appeal considerations

Old Business: Discussion of possible "AIDS" regulations

Eviction Hearing: 230 Lowell St. #3 & #4 (cont. from 2/24/87,
Bd. letter 10/21/86, H.O. Recom. 3/31/86)

Appeal Hearing: 255 Steiner St. #104 (cont. from 3/2/87)

XII. Adjournment

President Marshall adjourned the meeting at 7:16 p.m.

NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,

March 10, 1987

State Building, 350 McAllister St. #1158

AGENDA

- I. Call to Order
- II Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals
- | | | |
|----|------------------------|--------------|
| A. | 44 McAllister St. #510 | [H002-21(R)] |
| B. | 3145 Octavia St. #15 | [H002-01(A)] |
| C. | 7002-08 California St. | [H002-32(R)] |
| D. | 2085 Greenwich St. | [H002-02(A)] |
- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions
- IX. Old Business
- | | |
|---------------|---------------------------------|
| 830 Hayes St. | [H001-14(R) through H001-22(R)] |
|---------------|---------------------------------|
- X. New Business
- XI. Calendar Items
- XIII. Adjournment

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RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD

MARCH 10, 1987

THE MINUTES FOR THIS MEETING ARE MISSING



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, March 17,
1987 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Marshall called the meeting to order at 5:40 p.m.

II. Roll Call

Commissioners Present: Alviar; Chan; Marshall.
Commissioners not Present: Carrico; Chinchilla; How; Payne;
Waller.
Staff Present: Hernandez; O'Hearn.

Commissioners Armstrong and Curran appeared on the record at 5:42 p.m.
Commissioner Chan left at 7:00 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of March 10, 1987, as
corrected. (Chan/Alviar: 3-0)

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IV. Consideration of Appeals

A. 909 Geary St. #625 [H002-33(R)]

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The tenant appeals the hearing officer's remand decision denying his
petition for failure to repair and maintain and for substantial
decreases in housing services. On appeal he refers to his payment for
a bed to replace one with only three legs.

MSC: To deny the appeal. (Chan/Alviar: 3-1; Armstrong
dissenting)

B. 382-A Noe [H002-34(R)]

One of the tenant appeals the hearing officer's decision granting her
landlord's petition for capital improvement increases for three of the
eight units at the building. She contends that a prior Board decision
granting her tenant petition based on lack of heat essentially should
preclude a passthrough for the new wall heater in her unit.

MSC: To deny the appeal. (Armstrong/Alviar: 4-0)

C. 1800 Pacific Ave. #604 [H002-38(R)]

The tenant appeals the hearing officer's decision denying her petition
for a rent reduction based on a substantial decrease in services. Her
appeal claims that the hearing officer erred in interpreting the burden
of proof, especially since no opposing evidence was submitted.

To deny the appeal. (Alviar/Chan: 4-0)

1119A

V. Communications

The Commissioners received the statistical report on the petitions filed and hearings held in February 1987. The Executive Director noted that landlords of small buildings filed many of the capital improvement petitions.

VI. Director's Report

The Executive Director invited the Commissioners to attend the Rent Board budget meeting with the Mayor scheduled on April 28, 1987 at 10:00 a.m. He also reported on the hiring of a new clerk typist to fill the staff vacancy.

VII. Old Business

The Commissioners reviewed the revised draft of the letter from the Board to the Mayor regarding proposed citywide artists live/work zoning legislation sponsored by the Planning Department. The letter was approved with modifications for the final draft to be signed by President Marshall.

Discussion of possible "AIDS" regulations was postponed until the subcommittee requests that it be rescheduled.

VIII. Calendar Items

<u>March 24, 1987:</u>	4 appeal considerations
<u>March 31, 1987:</u>	3 appeal considerations
<u>April 7, 1987:</u>	Election day - no meeting

IX. Consideration of Allegations of Wrongful Evictions

230 Lowell St. #3 & #4

[G136-14(E) & G136-15(E)]

This hearing commenced shortly after scheduled at 6:00 p.m.. The tenant of unit 3 appeared with her attorney and with an interpreter. The landlord appeared and represented himself.

In March 1986 the hearing officer recommended that the case be monitored because the landlord was showing evidence of bad faith in pursuing temporary evictions for capital improvements. The Eviction Unit Supervisor reported to the Board on this case on October 17, 1986 and in December 1986 the Commissioners voted to hold a hearing on the matter.

The tenant had been out of the apartment for eight months even though the landlord had originally estimated that the work would take about 45 days. Following the December 15, 1986 notification to the parties, the landlord gave the tenant a notice to evict for owner occupancy. He later decided not to move from San Rafael and he allowed the tenant to re-occupy the unit a few weeks ago.

1119A

Following the close of the hearing at 6:55 p.m. the Commissioners discussed the lengthy history of this case and the owner's apparent bad faith in issuing the owner-occupancy notice in December. The Board made and approved the following motions:

MSC: To find the attempted eviction wrongful.
(Chan/Marshall: 4-0)

MSC: To take no action at this time, except to monitor this case. (Alviar/Armstrong: 4-0)

X. Appeal Hearing

255 Steiner St. #104

[H002-26(R)]

The Board accepted this tenant appeal on February 17, 1987. The tenant alleged that the approved capital improvement passthrough and the operating and maintenance increase would impose a considerable financial hardship and that her garage rent has been increased unlawfully since 1982.

The tenant appeared with her husband who also resides in the unit and they represented themselves. The manager appeared and represented the landlord. Prior to the filing of the petition, the tenants' base rent was \$387.75 including a garage which was rented about 3 years ago, plus both a \$7.45 PG&E passthrough and a \$2.80 prior capital improvement passthrough.

Pursuant to the hearing officer's decision, the landlord was granted a \$10.01 capital improvement passthrough plus a 7% (\$27.14) operating and maintenance increase, in addition to the 4% (\$15.51) annual increase. The new total rent, including the prior PG&E passthrough, was \$450.66 effective March 1, 1987.

Testimony at the hearing focused on the tenants' current and recent financial status. Following termination of the hearing at 7:30 p.m., the Commissioners discussed the matter and approved the following motion:

MSC: To defer the 7% (\$27.14) operating and maintenance increase for 6 months (to September 1, 1987) from the effective date of the increase. (Alviar/Armstrong: 3-0)

XI. Adjournment

President Marshall adjourned the meeting at 7:35 p.m.



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3/24/87

NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,

March 24, 1987

State Building, 350 McAllister St. #1158

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals

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MAR 23 1987

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- A. 161 Broderick, [H002-35(R) through H003-37(R)]
units 1, 2 & 3
- B. 2925 Pierce St. [H002-39(R) through H002-41(R)]
units 2, 4 & 5
- C. 1137 Webster #1 [H002-03(A)]
- D. 631 & 633 33rd Ave. [H002-04(A)]

- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions
- IX. Old Business
- X. New Business
- XI. Calendar Items
- XII. Adjournment

1121A



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, March 24,
1987 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Marshall called the meeting to order at 5:33 p.m.

II. Roll Call

Commissioners Present:

Alviar; Carrico; Marshall; Payne;
Waller.

Staff Present:

Hernandez; Wolf.

Commissioners Armstrong and How appeared on the record at 5:34 p.m.;
Commissioner Curran appeared at 5:36 p.m.; Commissioner Chinchilla at
5:40 p.m.; and Commissioner Chan at 5:42 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of March 17, 1987 as written.
(Alviar/Payne: 4-0)

IV. Consideration of Appeals

A. 161 Broderick
Units 1, 2 & 3

[H002-35(R) through H003-37(R)]

The tenants appeal the hearing officer's determination that the building is an owner-occupied four-unit structure and therefore exempt from the Rent Ordinance. The tenants maintain that the ownership shares in the property are not a matter of record; that the property is owned by a partnership, which cannot owner-occupy; that the owner did not reside in the building for six continuous months; and that the property consists of five units.

MSC: To deny this appeal. (Payne/Alviar: 4-0)

B. 2925 Pierce Street
Units 2, 4 & 5

[H002-39(R) through H002-41(R)]

Three tenants appeal the hearing officer's decision certifying large rent increases based on capital improvements. The tenants allege that the decision is unfair and that the approved rent increases will present a considerable hardship.

MSC: To accept the appeals and schedule this case for a hearing before the Board limited to the issues of hardship for the tenants and the landlord, and the capital improvement work done to the individual units.
(Alviar/Carrico: 5-0)

1126A

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MAR 31 1987

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C. 1137 Webster #1

[H002-03(A)]

The landlord appeals the hearing officer's decision granting the tenant a refund of several years of illegal rent increases. The landlord maintains that she did not appear at the hearing because she thought the case was settled, and that the rent increases were properly imposed on a garage that the tenant had previously not had the use of.

MSC: To accept the appeal and schedule this case for a hearing before the Commissioners. (Carrico/Payne: 5-0)

D. 631 & 633 33rd Avenue

[H002-04(A)]

The landlord appeals the decision of the hearing officer granting refunds to two tenants for illegal rent increases. The landlord maintains that one of the tenants filed regarding alleged decreased housing services and failure to repair and that therefore adjudication of the rent increase issue was improper; and questioned the rent history figures relied on by the hearing officer.

MSC: To accept the appeal and remand this case to the same hearing officer to review the rent histories of the tenants and to give the landlord the option of paying back any overpayment in one lump sum or spread out over a 12-month period. (Carrico/Payne: 4-1; Alviar dissenting)

V. Communications

The Board received the following communications:

A. A letter from the Mayor clarifying the ability of department heads to voice their opinions on policy questions, even when such opinions differ from positions taken by their respective commissions.

B. The decision in the case at 25 Woodland Avenue [H001-74(A)], which was approved.

VI. Director's Report

The Executive Director notified the Commissioners that the budget meeting with the Mayor has been changed to April 7, 1987 at 11:00 a.m.

VII. Old Business

Commissioner Chinchilla notified those in attendance that this would be his last Board meeting.

VIII. Calendar Items

March 31, 1987

3 appeal considerations.

Considerations of Allegations of Wrongful Eviction.

April 7, 1987

Election Day - no meeting.

April 14, 1987

6 appeal considerations.

Appeal hearings:

6:00 - 1137 Webster #1 [H002-03(A); accepted 3/24/87]

6:30 - 2925 Pierce Street, units 2, 4 & 5

[H002-39(R) through H002-41(R); accepted 3/24/87]

IX. Adjournment

President Marshall adjourned the meeting at 6:04 p.m.

SF
R52 3/31/87
#2

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday March 31,
1987 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Marshall called the meeting to order at 5:37 p.m.

II. Roll Call

Commissioners Present: Carrico; Marshall; Payne; Waller.
Commissioners not Present: Armstrong; Curran.
Staff Present: Hernandez; O'Hearn.

Commissioner How appeared on the record at 5:40 p.m. Commissioner
Alviar appeared at 5:47 p.m. and Commissioner Chan appeared at 5:49 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of March 24, 1987 as written.
(Payne/Carrico: 3-0)

DOCUMENTS DEPT.

IV. Consideration of Appeals

APR 3 1987

A. 721 Geary St.

[H002-05(A)]

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The landlord appeals the hearing officer's decision denying operating
and maintenance rent increases and granting capital improvement
increases. The landlord contests the disallowance of debt service and
water costs, as well as the hearing officer's findings concerning the
condition of the property.

MSC: To accept the appeal and remand the case to the same
hearing officer for further hearing limited to
consideration of the operating and maintenance issues.
(Payne/Carrico: 5-0)

B. 1714 48th Ave.

[H002-42(R)]

The tenant appeals the hearing officer's decision granting a monthly
capital improvement passthrough of \$210.51. The tenant contends that
the bathroom was not remodeled and that the roof cost (divided among
three units) was improperly allocated. She also complains about
heating problems in her unit.

MSC: To accept the appeal and remand the case to the same
hearing officer for further hearing limited to the
issue of roof leaks with instructions to stay the
passthrough for roofing costs until the roof leaks, if
any, are repaired. (Carrico/Payne: 5-0)

1133A

C. 1834 Fell St.

[H002-43(R)]

The tenant appeals the hearing officer's determination that this three-unit property is exempt from the Rent Law based on owner-occupancy. In reviewing the evidence in the case, the tenant disputes the owners' claim of principal residency.

MSC: To excuse Commissioner Carrico from consideration of this appeal. (Payne/Alviar: 5-0)

MSC: To deny the appeal. (Payne/Alviar: 5-0)

V. Communications

A. The Commissioners received and approved the written decision for the appeal concerning 255 Steiner St. #104 [Appeal No. H002-26(R)].

B. The Commissioners also received a letter from the landlord's attorney concerning the Board's acceptance last week of the tenants' appeal of the capital improvement decision for 2925 Pierce St. [Appeal Nos. H002-39(R) through H002-41(R)] The Board directed staff to respond in writing.

VI. Director's Report

A. The budget meeting with the Mayor has been rescheduled from April 7th.

B. The Director showed the Commissioners the computer generated annual eviction notice report indicating the causes for eviction as stated in the notices filed with the Board in March 1987.

VII. Consideration of Allegations of Wrongful Eviction

Report from Staff

The Eviction Unit Supervisor provided the Commissioners with written summaries of the following cases, as well as specific recommendations for Board action in each case.

A. 3740 25th St. #501 [H004-36(E)]

MSC: To adopt the recommendation of the hearing officer and staff to hold a Board hearing on this matter, with the possibility of referral to the District Attorney for improper business practices. (Payne/Alviar: 5-0)

B. 709 Clayton #1 & #3	[H001-57(E) & H002-05(E)]
C. 264 Sanchez St.	[H004-47(E)]
D. 245 & 247 Henry	[G150-28(E) & H003-15(E)]
E. 4621 & 4623 -18th St.	[H004-05(E) & H005-25(E)]
F. 3031 Steiner St. #4	[H003-77(E)]
G. 473 Dellbrook Ave.	[H004-76(E)]
H. 417 Fulton #3	[H004-06(E)]

- I. 3944 Mission St. #4 [H004-13(E)]
J. 429 Filbert St. [H004-18(E)]

MSC: To adopt the staff recommendation in each of the above cases, with clarification that cases B. and D. come back to the Board before referral to the District Attorney. (Payne/Carrico: 5-0)

VIII. Calendar Items

April 7, 1987

Election Day - no meeting.

April 14, 1987

7 appeal considerations (including 2 for one decision).

Appeal hearings:

6:00 - 1137 Webster #1 [H002-03(A); accepted 3/24/87]

6:30 - 2925 Pierce Street, units 2, 4 & 5

[H002-39(R) through H002-41(R); accepted 3/24/87]

IX. Adjournment

President Marshall adjourned the meeting at 5:37 p.m.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, April 14,
1987 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Marshall called the meeting to order 5:37 p.m.

II. Roll Call

Commissioners Present:

Alviar; Armstrong; Carrico; Chan;
Curran; How; Marshall; Payne.

Commissioners not Present:

Waller.

Staff Present:

Hernandez; O'Hearn.

DOCUMENTS DEPT.

APR 20 1987

Commissioners Curran and Armstrong left at 8:25 p.m.

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III. Approval of the Minutes

MSC: To adopt the minutes with the corrected adjournment
time. (Alviar/Chan: 5-0)

IV. Consideration of Appeals

A. 900 Chestnut

[H002-47R through H002-60R]

Tenants of fourteen units of the twenty-one units involved in this case appeal the hearing officer's decision granting capital improvement passthrough of approximately \$300 per month per unit. The capital improvement work in this 35-unit building includes the replacement of galvanized plumbing pipes with copper pipes, and resulting kitchen and bath remodeling. The tenants base their appeals on prior objections to the new appliances and fixtures, and on hardship.

MSC: To accept the appeals and schedule a Board hearing on
the issues of hardship and improvements made to
individual units. (Chan/Marshall: 5-0)

President Marshall noted that improvements to individual units possibly were affected by the common area improvements. She also urged the parties to stipulate to the facts and to attempt to resolve the hardship issue.

B. 1471 15th St. #3

[H002-06A]

The landlord appeals the hearing officer's decision granting the tenant's petition filed on the grounds of decrease in service, failure to repair and maintain, and failure to comply with a previous Board decision mailed on July 28, 1986. In the instant decision, the hearing officer granted a \$100/month decrease (\$25 each for mold problems, lack of pest control, unrepaired water sewage pipe, and wall holes and cracks) effective August 1, 1986.

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MSC: To accept the appeal and schedule a Board hearing.
(Payne/Alviar: 5-0)

C. 1890 Clay St. #901 [H002-45R]

The hearing officer granted a one-time decrease of \$25 for mildew problems. The tenant appeals stating that the landlord has continued to fail to correct the problems with the mildew, roaches and bathroom vent.

MSC: To deny the appeal without prejudice to the filing of another petition. (Carrico/Alviar: 5-0)

D. 1446 Jones Street #6 [H002-44R]

Based on a conciliation agreement in a prior petition, the hearing officer denied the tenant's rent decrease petition. The tenant appeals alleging that the prior petition concerns a separate matter and that he was not allowed sufficient time to respond to post-hearing documents submitted by the landlord.

MSC: To accept the appeal and remand the case to the same hearing officer for further hearing with instructions to review the 1985 case and to review the tenant's PG&E bills from one year prior through one year after the new heating system was installed. (Chan/Alviar: 5-0)

E. 2100 Bay St. #301 [H002-07A]

The landlord appeals the hearing officer's decision granting the tenant's petition both as to failure to repair and decrease in services due to kitchen ceiling leaks. The landlord contends that he made several efforts to repair the leak, that the tenant's use of the kitchen was not impaired, and that the hearing officer did not provide a basis for the amount of the rent decrease.

MSC: To deny the appeal. (Carrico/Chan: 3-2; Alviar and Payne dissenting.)

F. 524 Guerrero St. [H002-46R]

The tenants appeal the hearing officer's decision granting their landlord's petition to exempt the property from the Rent Ordinance based on substantial rehabilitation. They contend that the building must have been on the brink of demolition and that health and safety violations must have existed to such a level that no persons could be allowed to remain in the structure. They also object to the hearing officer's refusal to consider their witnesses as experts on standards of safe, sanitary housing in low-income neighborhoods.

MSC: To deny the appeal. (Carrico/Alviar: 3-2; Chan and Marshall dissenting.)

V. Appeal Hearings

A. 2925 Pierce St.
units 2, 4 & 5

[H002-39R through H002-41R]

The Board accepted the tenants' appeals on March 24, 1987 limited to the issues of of hardship for the tenants and the landlord, and the capital improvement work done to the individual units. The hearing officer's decision granted capital improvement passthrough as follows:

<u>Unit</u>	<u>Base Rent</u>	<u>passthrough</u>	<u>New Rent</u>
2	\$560.00	\$268.41	\$828.41
4	357.00	213.19	570.19
5	374.00	220.63	594.63

The hearing commenced at 6:50 p.m. and the Board took testimony from each of the tenants concerning their income and expenses. The landlord's representative testified that the owner owns no other buildings than this 6-unit property and performed much of the capital improvement work as a result of a City inspection. She and her attorney also contended that the work in individual units was necessitated by common area work involving new plumbing and wiring.

After the hearing closed at 7:46 p.m., the Commissioners discussed the case and made the following motions:

- MSC: To find extreme hardship for appellant McDonald of apt. 4 and therefore amortize the capital improvements over a longer period of time, such as to approximately halve the allowable passthrough. (Payne/Carrico: 4-1; Alviar dissenting.)
- MSF: To disallow the passthrough for the dishwasher and garbage disposal for units 2, 4 and 5. (Payne/Marshall: 2-3; Alviar, Marshall and Payne dissenting.)
- MSF: To affirm the decision of the hearing officer, except as to tenant McDonald (#4). (Payne/Carrico: 2-3; Alviar, Chan and Marshall dissenting.)
- MSC: To disallow the passthrough for the dishwasher, garbage disposal and sink for units 2, 4 and 5. (Chan/Alviar: 3-2; Carrico and Payne dissenting.)
- MSC: To affirm the remainder of the hearing officer's decision. (Payne/Carrico: 5-0)

B. 1137 Webster St. #1

[H002-03A]

The landlord did not appear for this hearing scheduled at 6:00 p.m. However, staff noted that the proof of service indicates that the notice of hearing may not have been sent to the landlord's current address, apparently due the landlord's failure to include her address in her appeal.

MSC: To take the hearing off calendar for this meeting.
(Chan/Payne: 5-0)

MSC: To dismiss the appeal based on the landlord's failure
to appear if the failure to appear is not due to lack
of notice. (Chan/Payne: 5-0)

VI. Communications

A. The Commissioners received a copy of the Mayor's letter to President Marshall concerning the Rent Board's letter describing the dispute between the Planning Department and the Rent Board over Planning Department proposals to certify live/work space. President Marshall requested that the Executive Director respond in writing to the Planning Department director to request a meeting in early May when President Marshall can attend and to send a copy of the response to the Mayor.

B. The Commissioners also received a copy of a letter to the Eviction Unit Supervisor from a tenant who commended Rent Board staff and the hearing officer.

C. Assemblyman Art Agnos wrote to the Rent Board president concerning the tenants' appeals for 900 Chestnut.

D. The hearing officer for the 524 Guerrero St. decision wrote his comments on the appeal.

VII. Director's Report

The Executive Director reported that the budget meeting with the Mayor is scheduled for April 23, 1987 at 11:00 a.m.

VIII. Calendar Items

April 21, 1987

Executive Session: 2090 Broadway (Super. Court No. 869755)
7 appeal considerations (including two for one decision).

April 28, 1987

5 appeal considerations
1 eviction hearing: 3740 25th St. #501 [H004-36E]
2 appeal hearings: 1471 15th St. #3 [H002-06A accepted 4/14/87]
1137 Webster St. [H002-03A rescheduled from 4/14/87]

May 5, 1987

appeal considerations
1 appeal hearing: 900 Chestnut [H002-47R through H002-60R]

IX. Adjournment

President Marshall adjourned the meeting at 8:42 p.m.

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#1

4/21/87

NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,
April 21, 1987

State Building, 350 McAllister St. #1158

AGENDA

I. Call to Order

II. Roll Call

III. Executive Session

2090 Broadway Associates v. Residential Rent Board
(Superior Court No. 869755)

IV. Approval of the Minutes

V. Consideration of Appeals

A. 755 Burnett #5	[H002-10A]
B. 495 27th Ave. #10	[H002-61R]
C. 1200 Washington St. #8	[H002-8A]
D. 1280 Grove St.	[H002-09A]
E. 1341 Valencia St. #17 & #18	[H002-11A & H002-62R]
F. 4606 18th St.	[H002-63R]

VI. Director's Report

VII. Remarks from the Public

VIII. Consideration of Allegations of Wrongful Evictions

IX. Old Business

X. New Business

Discussion of Possible Hardship Regulations

XI. Calendar Items

XII. Adjournment

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F
R52 4/21/87
#2

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, April 21,
1987 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

DOCUMENTS DEPT

I. Call to Order

APR 24 1987

Vice-President Carrico called the meeting to order at 5:31 p.m. SAN FRANCISCO
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II. Roll Call

Commissioners Present: Carrico; Chan; How; Payne; Waller
Commissioners not Present: Alviar; Marshall
Staff Present: Hernandez ; Wolf

Commissioner Curran appeared at 5:32 p.m.; Commissioner Chan appeared
at 5:34 p.m.; and Commissioner Armstrong appeared at 5:39 p.m.

III. Executive Session

Pursuant to Government Code Section 54956.9(a), the Board went into
closed session to discuss 2090 Broadway Association v. Rent Board,
Superior Court No. 866-261

MSC: To excuse Commissioner Carrico from consideration of
this matter. (Payne/Curran: 5-0)

MSC: To allow the City Attorney to sign the stipulated
agreement between the parties on the Board's behalf.
(Curran/Chan: 5-0)

IV. Approval of the Minutes

MSC: To approve the minutes of April 14, 1987, as written.
(Curran/Payne: 5-0)

V. Consideration of AppealsA. 755 Burnett #5[H002-10(A)]

The landlord appeals the hearing officer's decision granting the
tenant's petition for decreased housing services for a leak in the
bedroom closet. The landlord contends that the time period for the
award should be limited to twelve months prior to the filing of the
petition; that recompense should be granted for rainy days only; and
that conscientious efforts were made to effectuate the repairs.

MSC: To accept the appeal and remand the case for a hearing
before a new hearing officer. (Curran/Payne: 5-0)

1156A

B. 495 27th Ave. #10

[H002-61(R)]

The tenant appeals the hearing officer's decision which grants a rent reduction for lack of hot water, but finds that the tenant failed to meet her burden of proof warranting a rent reduction for other alleged decreased housing services. The tenant maintains on appeal that her bathroom sink and toilet were disconnected for almost one month, and that she can produce witnesses to document this.

MSC: To deny this appeal. (Payne/Curran: 5-0)

C. 1200 Washington Street #8 [H002-08(A)]

The landlord appeals the hearing officer's decision granting a rent reduction for the loss of use of a dishwasher in the unit, maintaining that the rent reduction should be equivalent to the capital improvement amortization formula for such an appliance.

MSC: To accept this appeal and remand this case for a hearing before a new hearing officer. (Payne/Curran: 5-0)

D. 1280 Grove Street

[H002-09(A)]

The landlord appeals the hearing officer's decision granting rent increases due to capital improvements and increased operating expenses. Due to mathematical errors on the part of the preparer of the petition, the amounts granted by the hearing officer were less than the actual cost of the work.

MSC: To excuse Commissioner Carrico from consideration of this appeal. (Payne/Curran: 5-0)

MSC: To accept the appeal and schedule a hearing to address the issues raised on appeal. (Curran/How: 5-0)

E. 1341 Valencia St. #17 & #18 [H002-11(A) & H002-62(R)]

Two tenants petitioned and received awards for decreased housing services; future rent increases were also denied until certain repairs were made. One tenant appeals, alleging that the hearing officer mis-calculated the award. The landlord also appeals, alleging errors on the part of the hearing officer and requesting that the award be offset against rent monies withheld by the tenants.

MSF: To accept the appeals of the landlord and the tenants and schedule a hearing before a new hearing officer. (Curran/Payne: 1-4; Carrico, Chan, Payne and Waller dissenting)

MSC: To deny both appeals, but remand the case to staff to ascertain whether a technical correction is necessary. (Payne/Waller: 4-1; Curran dissenting)

F. 4606 18th Street

[H002-63(R)]

The tenant appeals the hearing officer's decision which awards a rent reduction due to a cracked furnace and subsequent lack of heat to the unit. On appeal the tenant alleges errors in the decision's "Findings of Fact" and maintains that the award constitutes inadequate renumeration for the substantial decrease in housing services.

MSF: To deny this appeal. (Curran/Payne: 3-2; Carrico, Chan and Waller dissenting)

MSC: To accept the appeal and remand this case for a new hearing on the issue of the amount of the award for the lack of heat. (Chan/Waller: 5-0)

VI. Communications

The Board received a copy of the schedule for departmental budget hearings before the Finance Committee. The Rent Board is scheduled for the afternoon of June 16th.

VII. Director's Report

The Executive Director briefly discussed the fiscal constraints of this year's budget cycle.

VIII. New Business

The scheduled discussion of possible "hardship" regulations was postponed in light of remarks proffered by Deputy City Attorney Pennypacker.

IX. Calendar Items

April 28, 1987

5 appeal considerations

1 eviction hearing: 3740 25th Street #501 [H004-36(E)]

1 appeal hearing: 1471 15th Street #3 [H002-06(A)]

accepted 4/14/87

4 eviction considerations

May 5, 1987

6 appeal considerations

1 appeal hearing: 900 Chestnut [H002-47(R) through H002-60(R)]

accepted 4/14/87

X. Adjournment

Vice-President Carrico adjourned the meeting at 7:00 p.m.



NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,
April 28, 1987

State Building, 350 McAllister St. #1158

AGENDA

DOCUMENTS DEPT.

APR 24 1987

SAN FRANCISCO
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- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals
 - A. 4172 Mission St. [H002-12A]
 - B. 1945-55 Lyon St. [H002-13A]
 - C. 28 Pinto Ave. [H002-14A]
 - D. 3110 Clay St. #7 [H002-15A]
 - E. 443-449 Haight St. [H002-16A]
- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions
 - A. Hearing
 - 6:00 3740 25th St. #501 [H004-36E]
 - B. Staff Report
 - 1. 2614 Gough St. #2 [H004-87E]
 - 2. 1105 Larkin St. [H005-57E]
 - 3. 717 Taraval [H001-52E]
 - 4. 4155 Army St. #3 [H005-18E]
- IX. Old Business
- X. New Business
- XI. Appeal Hearing
 - 6:30 1471 15th St. #3 [H002-06A]
(accepted 4/14/87)
- XII. Calendar Items
- XIII. Adjournment

1153A



SF
R52
#2 4/28/87

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, April 28,
1987 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

DOCUMENTS DEPT.

MAY 5 1987

SAN FRANCISCO
PUBLIC LIBRARYI. Call to Order

Vice-President Carrico called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present: Alviar; Armstrong; Carrico; Chan;
Payne; Waller.
Commissioners Not Present: Curran; Marshall.
Staff Present: Hernandez; Wicks.

Commissioner How appeared on the record at 5:37 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of April 21, 1987, as written.
(Alviar/Waller: 5-0)

IV. Consideration of AppealsA. 4172 Mission Street [H002-12(A)]

The tenants have resided in their apartment since 1975. In 1982 their rent was \$500; it was increased to \$600 in 1983, \$700 in 1985, and \$800 in 1986. The Hearing Officer found that payments of sums beyond the guideline increases resulted in an overpayment of \$9,200. The owner argued on appeal that the increases only made up for the amounts he could have received if he had imposed increases between 1978 and 1982, as allowed by interim Ordinance provisions in effect during those years. In rebuttal the tenant argued that those early allowances were "use it or lose it," and that the landlord could not later impose increases for those periods.

MSC: To accept the case for a hearing at the Board level.
(Payne/Alviar: 4-1; Commissioner Chan dissenting)

B. 1945-55 Lyon Street [H002-13(A)]

In 1985 the landlord inherited the 6-unit building from her deceased employer. She petitioned for a rent increase based on comparables and submitted an incomplete operating and maintenance form as background. The Hearing Officer found the comparables information insufficient, as the units compared were not similar in length of occupancy, amenities, services, and location. Since operating and maintenance increases were not petitioned for but only offered as evidence, no ruling was made on that issue. On appeal the landlord argued that her comparable evidence 1162A

was not given sufficient attention and that the Hearing Officer had failed to take into consideration extensive expenditures for clearing title, increased taxes and insurance, and other expenses that resulted in monthly losses, as petitioned for under "other".

MSC: To accept the appeal for a hearing before the Board, with special instructions. (Payne/Alviar: 5-0)

C. 28 Pinto Avenue

[H002-14(A)]

This case was originally heard before the Rent Board on November 18, 1985. The decision, in substance, granted the tenant's petition. After denial of the landlord's appeal, a Writ of Mandate was filed in Superior Court. Because the tape-recorded record of the original hearing was inadequate for judicial review, the parties by stipulation agreed to another hearing in order to produce an adequate tape recording. The hearing of February 19, 1987 incorporated the original record but was held de novo on the merits of the tenant's petition.

As before, the landlord argued that the petitioner was not a tenant and, even if she were, she was not entitled to a controlled rent.

MSC: To uphold the Hearing Officer and deny the appeal. (Payne/Chan: 5-0)

D. 311 Clay Street, #7

[H002-15(A)]

The matter was originally heard as a landlord's petition for capital improvements. Following appeals by both parties, the case was remanded to a new Hearing Officer and later consolidated with a tenant petition and report of alleged wrongful eviction. The tenants occupy the attic unit. Soon after the current owners purchased the property in 1984, they temporarily vacated the premises for capital improvements. The subject tenants reoccupied upon completion of the work. Effective August 1986 the tenants were given notice of a capital improvement increase of \$1,002, to supplement their rent of about \$100. The cost of improvements made for the common benefit of the building was approximately \$44,500; work to the tenants' apartment totaled approximately \$24,000. Upon protest of the costs by the tenants, the Hearing Officer ruled that the balance of the work did not qualify for pass-through under the Ordinance, as the costs were incurred in making substantial, discretionary design changes which were not related to providing decent, safe, or sanitary housing or prolonging the useful life of the property. The total capital improvement increase granted was \$386.96 monthly. On appeal the landlord argued that design changes were made as a reasonable part of improvements which were necessary for the safety and well-being of the tenants.

MSC: To uphold the Hearing Officer and deny the appeal. (Waller/Chan: 5-0)

E. 443-449 Haight Street [H002-16(A)]

The tenants in two adjacent houses filed decreases in service petitions for elimination of portions of a common back fence and the proposed paving of the area for a large parking lot, for which no permits had been obtained. The tenants were awarded a 5% rent reduction for documented security losses but received no award for possible loss of the backyard garden. On appeal the landlord argued that only two sides of the yard had been previously fenced, permits would be obtained if necessary, and that a 30-foot chain link fence had been installed recently.

MSC: To deny the appeal with special instructions.
(Waller/Chan: 5-0)

V. Considerations of Allegations of Wrongful Evictions

A. Hearing 3740-25th Street #501 [H004-36(E)]

An eviction hearing was scheduled at 6:00 p.m. and began on the record at 6:12 p.m. Appearing were tenants Naomi and Britton Schlinke; their attorney, David R. Gellman; and witness Mark Haven; as well as landlord Oleg Gattenberger; his daughter, Elizabeth Smith; and attorney Panos Lagos. The case came before the Commissioners on the recommendation of the Hearing Officer and Eviction Unit, who felt there was sufficient evidence of an attempted wrongful eviction to merit the Board's review. Specifically, the Hearing Officer was presented evidence to suggest other tenants had been asked to leave so that the owner's daughter and granddaughter could reside in their units, yet no such occupancy had occurred. Further, it appeared that several comparable units remained vacant before, during, and after the notice period for the eviction of the subject tenants.

At the hearing before the Commissioners, the tenants repeated the allegations made at the initial hearing, with supporting documentation and testimony. They maintained that the basis for the termination of their tenancy was the landlord's desire to put in a special kind of stove, which for code reasons, might fit only in their apartment. They testified that although they had been offered either of two other apartments at a reduced rent, they felt they had no legal obligation to move and wished to remain in the unit that had been their home for several years. The landlord agreed that he had approached two tenants earlier about moving if his daughter and granddaughter were to live in the building, but he had not followed up on these requests. He also argued that the available units were not comparable because one would be combined with his present unit for his personal use, and the others could not accommodate the structural changes needed for his daughter and granddaughter.

MSC: To find no wrongful eviction but to monitor the case for a minimum of twelve months. (Alviar/Payne: 5-0)

B. Staff Report

1. 2614 Gough #2 [H004-87(E)]--continued to allow for the Board to reivew the landlord's request for reconsideration, recently filed.
2. 1105 Larkin Street [H005-57(E)]

The tenant moved into the building in July 1986 as a regular tenant but soon thereafter accepted management's offer to work as a cook in exchange for paying rent. He signed an agreement to this effect, which also included a clause requiring his immediate vacancy if his employment were to terminate. In December the tenant filed a labor complaint since he was working more hours than originally agreed on. The landlord immediately terminated his employment and took steps to evict him. The Hearing Officer found the tenant to be covered by the protections of the Rent Ordinance, found no grounds for the eviction, and discussed evidence of retaliation.

MSC: To adopt Staff recommendation to write the landlord a cautionary letter and monitor the case; if the eviction is pursued, to consider further Board action. (Payne/Alviar: 5-0)

3. 717 Taraval [H001-52(E)]

The tenants took up occupancy in 1981 from mastor-lessor United Savings Bank, which leased a commercial space for their organization, as well as the residential unit. The parties agreed that the tenant's rent would include payment for PG&E costs. Permission for parking was later given. Between 1982 and 1986 the tenants repeatedly requested repairs, most of which the bank did not perform. The Building Inspector eventually cited several code violations. In July 1986 the bank served notice for the tenants to vacate so the bank could have the unit "for its own use." The bank did not respond to the Rent Board's investigatory requests. In August the tenants received a termination notice for owner-occupancy. The Eviction Unit informed the landlords that this section did not apply since the bank was neither a "natural" person nor an owner; the bank's legal representative agreed. One month later the bank informed the tenants of a rent increase, responsibility for payment of 5 year's of past PG&E costs, assumption of all future PG&E bills, and loss of parking.

Despite notice to several bank individuals, no representative appeared at the hearing on the tenants' petition and wrongful eviction report. The owner's representative testified to efforts by the bank to have the actual owner take back responsibility for the apartment, in an apparent attempt to evict the tenants so that the bank could use their unit. The Hearing Officer found repeated actions in direct contravention of the provisions of the Rent Law, including the attempts to evict the tenants even after being informed that no legal basis existed for such action at this time.

MSC1: To excuse Commissioner Chan from this case.
(Payne/Alviar: 5-0)

MSC2: To accept Staff recommendation to review the case further; to set a Board hearing on the matter to see if the case should be referred to the District Attorney and/or City Attorney. (Payne/Alviar:4-0)

4. 4155 Army Street #3 [H005-18(E)]--Continued so that the Commissioners can review the Staff Recommendation at the same time they consider the tenant's appeal, recently filed.

VI. Communications

- A. Further arguments on the appeals were distributed on the cases concerning 4172 Mission and 3110 Clay.
- B. The Commissioners approved the Board decisions on 830 Hayes Street and 230 Lowell #3 and #4.
3. The tenants' attorney for 25 Woodland Ave.--heard as an appeal and eviction matter before the Board--wrote to indicate that the tenants had won their summary judgment in court. The judge agreed that the owner had not obtained all necessary permits prior to serving the eviction notice. In response to the attorney's inquiry, it was the consensus of the Board to monitor the case.

VII. Director's Report

Executive Director Ricardo Hernandez reported on the recent budget meeting with the Mayor and thanked the Commissioners who accompanied him.

VIII. Appeal Hearing

The appeal hearing for 1471-15th Street #3 [H002-06(A)] was postponed to June 9, 1987.

IX. Calendar Items

May 5, 1987

6 appeal considerations

6:00 Appeal Hearing: 1137 Webster [H002-03(A)] rescheduled from 4/14/87

May 12, 1987

6 appeal considerations

6:00 Appeal Hearing: 900 Chestnut [H002-47(R)-H002-59(R)]

X. Adjournment

Vice-President Carrico adjourned the meeting at 8:06 p.m.

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TO: Parties for 443-449 Haight Street / H002-16(A)

FROM: Alicia K. Wicks, Staff Attorney

RE: Special Instructions Concerning the Landlord's Appeal

DATE: April 30, 1987

In denying the landlord's appeal in the above matter, the Rent Board Commissioners issued the following instructions:

1. The landlord asserted that he has restored the services; i.e., that he has removed the ramp and replaced the fence. If so, the 5% rent reduction is terminated and full rent is reinstated as of the date all services were restored.
2. If the tenants dispute the reinstatement of the named services, they should write the Deputy Director of the Rent Board, requesting a compliance hearing.

AW/kw

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5/5/87

NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,

May 5, 1987

State Building, 350 McAllister St. #1158

AGENDA

DOCUMENTS DEPT.

MAY 5 1987

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- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals
 - A. 1505 Gough St. #18 H002-64R
 - B. 425 Hyde St. #42 H002-18A
 - C. 4155 Army St. #5 H002-65R
 - D. 5584 Mission St. H002-19A
 - E. 1235 Waller St. #12 H002-20A
 - F. 477 Burnett Ave. #1 H002-66R
- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions
- IX. Old Business
- X. New Business
- XI. Appeal Hearing
 - 6:00 1137 Webster H002-03A
(accepted March 24, 1987; continued from April 14, 1987)
- XII. Calendar Items
- XIII. Adjournment

1164A



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday May 5, 1987
at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Marshall called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present: How; Marshall; Payne.
Commissioners not Present: Alviar; Armstrong; Carrico;
Curran; Waller.
Staff Present: O'Hearn.

Commissioner Chan appeared on the record at 5:43 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of April 28, 1987 as written.
(How/Payne: 3-0) DOCUMENTS DEPT.

IV. Consideration of Appeals

A. 1505 Gough St.

H002-64R

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One of the tenants appeals the hearing officer's decision granting the landlord's capital improvement increase petition. In particular, the tenant notes that the building is for sale and that a prior capital improvement passthrough granted by the Board in 1983 for roof work remains in effect at the same time a new passthrough for additional roof work is granted. Further, he states that the rents listed are incorrect due to prior illegal increases and that the effective date of the new capital improvement increase also is incorrect.

MSC: To deny the appeal. (Payne/How: 3-0)

B. 425 Hyde St. #42

H002-18A

The landlord appeals the hearing officer's decision granting the tenant's petition for a rent decrease of \$50/month based on the elimination of the building elevator service to the basement garage and of \$25/month based on the elimination of the buzzer access system. The landlord contends that the hearing officer misinterpreted a prior Board decision on the tenant's previous petition on certain of the same issues. He also argues that the tenant is not disabled because she uses a cane instead of a wheelchair and can, therefore, use the stairs. Finally, he argues that the decrease amount, if appropriate at all, is excessive.

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MSC: To accept the appeal and schedule a hearing before the Board at a time convenient to both parties.
(Payne/How: 4-0)

C. 4155 Army St. #5

H002-65R

The hearing officer prohibited the landlord's proposed rent increase from \$240 to \$650, but allowed the accumulation of permissible increases since 1979 in order to establish an appropriate current rent following termination of the tenant's managerial services in 1987. The tenant appeals contending that increases prior to 1982 should not be considered in arriving at the current rent.

MSC: To accept the appeal and remand the case for proper application of the banking provisions. (Payne/How: 4-0)

D. 5584 Mission St.

H002-19A

The landlord appeals the hearing officer's decision granting the tenant a rent refund for illegal increases in 1985, 1986 and 1987. The landlord argues that the increases should be recalculated instead of voided.

MSF: To accept the appeal and schedule a hearing before the Board. (Payne/How: 1-3; Chan, How and Marshall dissenting)

MSC: To deny the appeal. (Chan/How: 3-1; Payne dissenting)

E. 1325 Waller St. #12

H002-20A

The hearing officer granted the tenant a one-time rent decrease of \$100 for the loss of pool heating in December 1986. The landlord appeals stating that the tenant had never been promised pool heating during winter months.

MSF: To accept the appeal and remand the case to the hearing officer with instructions to find that the lack of pool heating is not a significant decrease in housing services. (Payne/How: 2-2; Chan and Marshall dissenting)

There being no majority vote on this matter, the case was continued to the next Board meeting.

F. 477 Burnett Ave. #1

H002-66R

The tenant appeals the hearing officer's remand decision disallowing a rent reduction for the reduction of laundry facilities, but affirming a 5% reduction for the loss of storage space. The tenant states that the electrical service which connects to her laundry facilities is still disconnected.

MSC: To deny the appeal. (Payne/Chan: 4-0)

V. Communications

The Commissioners received copies of two news articles: one in The Recorder on April 22, 1987 concerning a eviction settlement for \$85,000; and one in the Examiner on May 5, 1987 concerning an eviction settlement for \$150,000.

VI. Remarks from the Public

Charles Walczak, appellant for the 1505 Gough St. case, inquired about appeal documents submitted for each of the Commissioners when some of the Commissioners are absent.

VII. Appeal Hearing

1137 Webster St. #1

H002-03A

On March 24, 1987 the Board accepted the landlord's appeal of the hearing officer's decision which granted the tenant a refund of several years of illegal rent increases. The landlord had not appeared at the original hearing which had been postponed three times on behalf of the landlord. The landlord submitted numerous documents with her appeal to justify the increases.

The appeal hearing began when the landlord arrived at 6:20 p.m. Both the landlord and the tenant represented themselves at the hearing and testified concerning the ownership of this four-unit building and the tenant's rent history. Following the closing of the hearing, the Commissioners discussed possible equities in the matter and agreed that the \$25 increase imposed in 1982 was permissible for the garage.

MSW: To calculate the rent overcharges based on the correct increases which would have been allowed if properly imposed. (Payne/How)

MSC: To calculate the rent overcharges by allowing the 1982 garage charge and the 1984 annual increase making the sum of \$1,740 to be paid back at the rate of \$100/month for the next 17 months. (How/Chan: 4-0)

VII. Calendar Items

May 12, 1987

6 appeal considerations, including one continued from May 5, 1987
6:00 Appeal Hearing 900 Chestnut (H002-47R - H002-60R accepted 4/14/87)

May 19, 1987

4 appeal considerations
2 requests for reconsiderations on eviction cases
2 appeal hearings: 4172 Mission (H002-12A accepted 4/28/87)
1945-55 Lyon (H002-13A accepted 4/28/87)

VIII. Adjournment

President Marshall adjourned the meeting at 7:20 p.m.

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5/12/87

NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,
May 12, 1987

State Building, 350 McAllister St. #1158

AGENDA

I. Call to Order

II. Roll Call

III. Approval of the Minutes

IV. Consideration of Appeals

A.	1235 Waller St. #12	H002-20A
B.	536 Leavenworth St. #31 & #43	H002-67R & H002-68R
C.	129 Lower Terrace	H002-21A
D.	2121 Pierce	H002-22A
E.	365 Guerrero St.	H002-23A
F.	40-44 1/2 Henry St.	H002-24A

V. Communications

VI. Director's Report

VII. Remarks from the Public

VIII. Consideration of Allegations of Wrongful Evictions

Report from Staff

A.	1487 - 48th Ave.	H002-02E through H002-04E
B.	1406 Washington	H004-24E through H004-30E
C.	245 Henry	G150-28E (update)

IX. Old Business

X. New Business

XI. Appeal Hearing

6:00 900 Chestnut

H002-47R through H002-60R
(accepted 4/14/87)

XII. Calendar Items

XIII. Adjournment

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#12 5/12/87

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, May 12, 1987
at 5:30 p.m. at the State Building, 350 McAllister St. #1158

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I. Call to Order

President Marshall called the meeting to order at 5:33 p.m.

II. Roll Call

Commissioners Present: Carrico, Curran; Marshall; Payne
Commissioners not Present: Alviar; Armstrong; Waller
Staff Present: Hernandez; Wolf

Commissioner How appeared on the record at 5:37 p.m. and Commissioner Chan arrived at 6:05 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of May 5, 1987 as written
(Payne/Curran: 4-0).

IV. Consideration of Appeals

A. 1325 Waller Street #2 H002-20A
(continued from 5/5/87)

The hearing officer granted the tenant a one-time rent decrease of \$100.00 for the loss of pool heating in December 1986. The landlord appeals, stating that the tenant had never been promised pool heating during the winter months.

MSC: To remand this case to the same hearing officer with instructions that the sense of the Board is that lack of pool heating during winter does not constitute decreased housing services (Payne/Carrico: 3-1; Marshall dissenting).

B. 536 Leavenworth Street #31 & #43 H002-67R & H002-68R

The original decision in this case allowed the landlord rent increases based on increased operating expenses, but disallowed some banked increases. The landlord's appeal was accepted and remanded to the same hearing officer on the issue of allowable banked and null and void increases only. The decision of the hearing officer on remand found the rent increases to be legal, as the amounts charged included costs

1184A

for delivery of the daily newspapers. Two tenants appeal the remand decision, claiming that the rent figures used by the hearing officer are incorrect, and the tenant in unit #43 maintains that she did not receive notice of the remand hearing.

MSC: To deny the appeal as to unit #31 (Carrico/Curran: 4-0).

MSC: To accept the appeal of the tenant in unit #43 and remand the case to the same hearing officer for a new hearing (Curran/Carrico: 4-0).

C. 129 Lower Terrace

H002-21A

The tenant petitioned regarding decreased housing services and received rent reductions for ceiling leaks, lack of hallway light and defective window locks. Rent increases issued prior to a twelve-month period having elapsed were also rendered null and void. The landlords appeal the award for the overpaid rent increases alleging that they had not acted in bad faith, but were simply reverting to the original anniversary date, and that the tenant had a history of paying her rent late.

MSC: To accept the landlords' appeal and schedule a hearing before the Board (Payne/Carrico:4-0).

D. 2121 Pierce

H002-22A

The landlord appeals the hearing officer's decision finding that the owner did not meet the requisite burden of proof to declare the building owner-occupied and therefore exempt from the provisions of the Rent Ordinance. The tenant received an award for decreased housing services but the owner appeals the issue of jurisdiction only.

MSC: To accept this appeal and schedule a hearing before the Board (Carrico/Curran: 4-0).

E. 365 Guerrero Street

H002-23A

The landlord appeals the hearing officer's decision awarding the tenant a rent reduction for the loss of use of the roof/deck for sun-bathing purposes, as the service was abolished when the landlord reroofed with a tar and gravel composition. The landlord maintains that the tenant had been instructed not to go on the roof.

MSC: To accept the appeal in this case and schedule a hearing before the Commissioners (Payne/Carrico: 4-0).

F. 40-44-1/2 Henry Street

H002-24A

The landlord appeals the hearing officer's decision denying rent increases due to alleged increased operating expenses and capital improvements. The hearing officer found that the landlord had failed to meet his burden of proof. The landlord maintains on appeal that the

hearing officer's reasons for denial can be addressed, as the documentation is available.

MSC: To send out an estimator regarding the capital improvements and then remand this case to the same hearing officer for a new hearing on both issues (Carrico/Payne: 4-0).

V. Appeal Hearing

On April 14, 1987 the Board accepted the appeals of fourteen tenants protesting the pass-through of approximately \$300.00 per unit per month for capital improvements arising from the remodeling of the building. The work performed included the replacement of galvanized plumbing pipes with copper pipes, and resulting kitchen and bathroom remodeling. The tenants based their appeals on prior objections to the new appliances and fixtures, and on allegations of hardship. The Board accepted the appeals on the issues of tenant hardship and work performed in individual units only. The common area work was only to be considered insofar as it affected the work done inside the units.

The hearing began at 6:15 p.m. and concluded at 9:49 p.m. Several tenants appeared along with counsel; one tenant appeared and represented herself. The landlord appeared with his counsel and several witnesses. Extensive documentation was provided by both parties. Except in the case of the one tenant representing herself, it was stipulated by the parties at the beginning of the hearing that hardship was not at issue in this proceeding. Therefore, testimony centered on the need for the work, the alleged "unique" construction of the building insofar as it necessitated certain time-consuming and expensive procedures, and the tenants' objections to the work and allegations that the work is of inferior quality.

After termination of the hearing, the Commissioners offered the parties a chance to negotiate a settlement. This offer was accepted and the Board's consideration of this case was therefore continued for one week.

VI. Communications

The Board received the following communications:

A. The monthly workload statistics for April.

B. A letter from Susanna Montana of the Department of City Planning regarding proposed exemption of certain artist live/work space units. Staff will draft a response letter to the Director of the Planning Department.

C. Letters from the parties involved in the cases at 900 Chestnut; 42 Henry Street, #42; 365 Guerrero; and 2614 Gough #2.
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D. A request for postponement by two tenants of the appeal hearing regarding 1945-55 Lyon Street.

MSC: To excuse Commissioner Carrico from consideration of this postponement request (Payne/Chan: 5-0).

MSC: To grant the request for postponement (Curran/Payne: 5-0).

VII. Consideration of Allegations of Wrongful Evictions

MSC: To accept staff recommendations regarding these cases (Curran/Chan: 5-0).

VIII. New Business

A. Commissioner Payne initiated a discussion regarding application of the null and void provisions of the Ordinance. Deputy City Attorney Kathryn Pennypacker will be asked to address the Board on this issue.

B. The "hardship committee", consisting of Commssioners Curran and Marshall, reported briefly on their progress.

IV. Calendar Items

May 19, 1987

4 appeal considerations

2 requests for reconsideration on eviction cases.

6:00 Appeal hearing: 4172 Mission [H002-12A - accepted 4/28/87]

May 26, 1987

No Board meeting.

June 2, 1987

No Board meeting: Election Day

June 9, 1987

4 appeal considerations

3 appeal hearings:

6:00 1471 15th Street - H002-06A accepted 4/14/87

6:30 1945-55 Lyon Street - H002-13A accepted 4/28/87

7:00 129 Lower Terrace - H002-21A accepted 5/12/87

V. Adjournment

President Marshall adjourned the meeting at 10:12 p.m.



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5/19/87

NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,
May 19, 1987 at 5:30 p.m.

State Building, 350 McAllister St. #1158

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals

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|----------------------------|----------|
| A. 1156 Sutter Street #301 | H002-25A |
| B. 197 Parker Avenue | H002-26A |
| C. 455 Eddy/350 Turk | H002-28A |
| D. 310 6th Avenue #8 | H002-30A |
| E. 310 6th Avenue #8 | H002-69R |

- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions

- A. Report from Staff
 - Update: 2807-09 Bryant St. F116-07E & F116-23E
- B. Requests for Reconsideration
 - 1. 2614 Gough #2 H004-87E
 - 2. 42 Henry Street H002-29E

- IX. Old Business
 - 900 Chestnut Street - heard 5/12/87

- X. New Business

- XI. Appeal Hearing
 - 6:00 - 4172 Mission [H002-12A accepted 4/28/87]

- XII. Calendar Items

- XIII. Adjournment

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, May, 19, 1987
at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Marshall called the meeting to order at 5:36 p.m.

II. Roll Call

Commissioners present: Carrico, Chan, Marshall, Payne.
Commissioners not present: Alviar, Armstrong, How, Waller.
Staff present: Hernandez, Wicks.

Commissioner Curran appeared on the record at 5:37 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of May 12, 1987.
(Payne/Carrico: 5-0)

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IV. Consideration of Appeals

A. 1156 Sutter St. #301 H002-25(A)

The landlord appealed the decision of the Hearing Officer based on an award for decrease in service. In March 1986 the heating element of the tenant's oven burned out; despite alleged notice to both the manager and landlord, no repairs were made. The tenant stated the owner threatened to evict her if she repaired and deducted the cost from her rent. On appeal the landlord stated that delays in the mail resulted in his receiving notice of the hearing after the scheduled date.

MSC: To accept the appeal and remand the case to a new
hearing officer for rehearing. (Payne/Curran: 5-0)

B. 197 Parker Avenue H002-26(A)

The Hearing Officer's decision rendering null and void a series of rent increases over the guidelines was appealed by the landlord. The tenants had rented space for a restaurant and adjoining apartment unit from a previous owner. After transfer of the property to the current owner, the rent on the apartment was increased 100% in 1983 and 9.1% in 1984. In 1983 the owner attempted to evict the tenants for owner-occupancy because his house was undergoing remodeling which would take about one year. In consideration for the owner's rescission

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of the eviction notice, the tenants agreed to the 100% increase. The Hearing Officer found that the tenants signed the agreement under threat of eviction; that the eviction would have been wrongful since the owner did not intend to make the unit his long-term residence; that there was no consideration since the owner did not agree to totally drop the eviction action. The owner argued that the apartment was used for restaurant storage, that the agreement was knowingly made, that the owner need only live there 12 months for a legal eviction, and that the landlord had significantly changed his personal plans to accomodate allowing the tenants to stay.

MSC: To accept the appeal and hear the case at the Board level. (Payne/Chan: 5-0)

C. 455 Eddy/350 Turk

H002-28(A)

The landlord has appealed the Hearing Officer's ruling that the landlord cannot impose a 50% rent increase on the garage spaces rented by the tenants, as these spaces are a housing service protected by the Ordinance. The arbitrator reasoned that even though the property owner has leased the garage area to a master-lessor, the garage has been operated for the benefit of the tenants and rented almost exclusively to them, and that garage problems have often been handled by the apartment management--thus invalidating the claim of separate interests of the apartment owner and garage lessor. On appeal the landlords argue that there is no legal connection between the rental of a garage and an apartment, and the landlord of one is not the landlord of the other, and therefore the garages are not housing services connected to the residential units.

Since the Board was not sent some of the documents, it was their consensus to defer discussion of the case to June 9, 1987.

D. 310-6th Avenue #8

H002-30(A)

A Hearing Officer's award of a 12% reduction for decrease in services was appealed by the landlord. It was acknowledged that serious leak and flooding problems in the past had damaged tenant's carpet extensively, with severe mold and mildew resulting. Although the leaks had been remedied, the tenant alleged his carpet needed replacing but the owner would not do so unless the tenant paid a \$500 deposit. Other repairs had been made in the unit, and the Hearing Officer denied other awards as they constituted a failure to repair. The landlord argued that any damage arose under the tenure of a previous landlord and a prior tenant, that there was only heresay evidence that the current landlord received notice of the problem, that the carpet needed to be repaired rather than replaced, and that tenant's overcrowding of the unit resulted in the landlord's request for a refundable \$500 deposit on the carpet.

MSF: To remand to a new Hearing Officer.
(Payne/Chan: 2-3, Commissioners Carrico, Curran, and Marshall dissenting)

MSC: To uphold the Hearing Officer and deny the appeal. (Curran/Carrico: 3-2; Commissioners Chan and Payne dissenting)

E. 310-6th Avenue #8

H002-69(R)

The tenant appealed the Hearing Officer's ruling [see the case above], asserting the following: the Hearing Officer gave only a 12% rent reduction for the carpet, not the 35% requested by the tenant; the period of the award was too short and did not reflect the time the owners or their agent had notice of the problem; the Hearing Officer erroneously took into consideration the landlord's good faith in making various repairs to the unit.

MSC: To uphold the Hearing Officer and deny the appeal. (Curran/Carrico: 3-2; Commissioners Chan and Payne dissenting)

V. Consideration of Allegations of Wrongful Evictions

A. Report from Staff

Eviction Unit Supervisor Wicks discussed the ongoing matter at 2807-2809 Bryant. It was the consensus of the Board to investigate the possibility of bringing the parties back to the Board for a further hearing.

B. Requests for Reconsideration

Since the Commissioners did not receive all of the supporting documents, they deferred reconsideration of the two cases [2614 Gough #2 and 42 Henry St.] until the June 9, 1987 meeting.

VI. Appeal Hearing

4172 Mission

[H002-12(A)]

A hearing was scheduled for 6:00 p.m. and began on the record at 6:16 p.m. Appearing were landlords-appellants Enea and Diana Bruno, represented by attorney Dean Hedani; and tenants-respondents Donald Penniman and Jim Conner, represented by attorney Michael Rossoff.

Background

The tenants have resided in their apartment since 1975. In 1982 their rent was \$500; it was increased to \$600 in 1983, \$700 in 1985, and \$800 in 1986; an increase to \$1,000 effective January 1987 was rescinded. The Hearing Officer found that payments of sums beyond the guideline increases resulted in an overpayment of over \$9,000. The owner argued on appeal that the increases only made up for the amounts he could have received if he had imposed increases between 1978 and 1982, as allowed by interim Ordinance provisions in effect during those years. In rebuttal the tenant argued that those early allowances were "use it or
1187A

lose it" provisions, and the landlord could not later impose increases for those periods.

At the hearing before the Commissioners the tenants reaffirmed their position as made to the Hearing Officer and further protested that they had just discovered they were paying the electricity for the landlord's daughter, who maintains an apartment in the building. In rebuttal the landlord argued that the tenants always knew of the metering system and that the landlord has left the commercial unit vacant so as to not burden the tenants with that utility cost. The landlord reiterated the arguments raised before the Hearing Officer and stressed the hardship to the landlord for allowing the large rebate of increases never before protested by the tenants.

The hearing was closed at 7:01 p.m. The Board requested that the parties retire to see if a settlement were possible. The parties appeared later in the meeting to inform the Commissioners that the matter had been resolved, but that they wished to keep the terms of the settlement confidential. Accordingly, a written withdrawal of the landlord's appeal will be sent to the Rent Board.

VII. Old Business

A. 900 Chestnut [appeal hearing 5/12/87]:

The representatives of the parties reported that efforts at settlement had been unsuccessful. After discussion of the case, it was the consensus of the Board that Commissioners Carrico and Marshall would review the costs in detail and report back to the Board. The attorneys for both sides proposed that the Commissioners make a tentative ruling about the allowable capital improvement rent increases; keep the record open two weeks to allow individual tenants with financial hardship problems to negotiate the increases with the landlord; and leave the hardship issue for later resolution by the Board if not resolved by the parties.

VIII. Communications

- A. The landlord from 721 Geary, the subject of an earlier appeal, wrote to inform the Commissioners of problems in the building.
- B. The attorney for the landlord at 1105 Larkin St. #3, earlier discussed as an eviction summary, wrote a reply to the Board's cautionary letter to his client.

IX. Director's Report

- A. Executive Director Ricardo Hernandez reported to the Board that the presence of asbestos in the forced-air heating system had recently been discovered in the building housing the Rent Board Office. The Board expressed its concern.

X. New Business

- A. Director Hernandez informed the Commissioners that two new lawsuits had been filed against the Rent Board and would be the subject of discussion in the Executive Session scheduled for June 9, 1987.

XI. Calendar Items

May 26, 1987

No meeting

June 2, 1987

No meeting (election day)

June 9, 1987

5:30 - Executive Session

5 appeal considerations

3 appeal hearings:

6:00--1471-15th Street [H002-06A accepted 4/14/87]

6:30--1945-55 Lyon Street [H002-13A accepted 4/28/87]

7:00--129 Lower Terrace [H002-21A accepted 5/12/87]

Eviction reconsiderations (continued from May 19, 1987):

2614 Gough #2 [H004-87E]

42 Henry [H002-29E]

Old Business: 900 Chestnut--Subcommittee report

June 16, 1987

4 appeal considerations

3 appeal hearings:

6:00--365 Guerrero [H002-23A accepted 5/12/87]

6:30--2121 Pierce [H002-22A accepted 5/12/87]

7:00--197 Parker [H002-26A accepted 5/19/87]

XII. Adjournment

President Marshall adjourned the meeting at 7:30 p.m.



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6/9/87

NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday,

June 9, 1987

State Building, 350 McAllister St. #1158

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals
 - A. 455 Eddy St./350 Turk St. H002-28A
(cont'd from 5/19/87)
 - B. 2 Alhambra Way #101 H002-71R
 - C. Stonestown H002-70R
 - D. 2170 Filbert Street H002-39A
 - E. 1355 Bay Street H002-32A
- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Eviction
 - Requests for Reconsideration (Cont. from 5/19/87)
 - A. 2614 Gough #2 H004-87E
 - B. 42 Henry H002-29E
- IX. Old Business
 - 900 Chestnut - Commission Subcommittee Report
- X. New Business
- XI. Appeal Hearings
 - 6:00 A. 1471 15th St. H002-06A
(rescheduled from 4/28/87)
 - 6:30 B. 1945-55 Lyon H002-13A
(rescheduled from 5/19/87)
 - 7:00 C. 129 Lower Terrace H002-21A (accepted 5/21/87)
- XII. Calendar Items
- XIII. Adjournment

DOCUMENTS DEPT.

JUN 1 1987

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6/9/87

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, June 9, 1987
at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Marshall called the meeting to order at 5:30 p.m.

II. Roll Call

Commissioners Present: Alviar; Carrico; Chan; Marshall;
Payne.
Commissioners not Present: Waller.
Staff Present: Hernandez; O'Hearn.

Commissioners Curran and Armstrong appeared on the record at 5:34 p.m.
Commissioner Alviar left at 6:30 p.m. and Commissioner How appeared at
6:50 p.m.

III. Approval of the Minutes

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MSC: To approve the minutes of May 19, 1987.
(Alviar/Carrico: 5-0)

JUN 12 1987

SAN FRANCISCO
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Pursuant to Government Code Section 54956.9(a) the Board went into
executive session for discussion and status report from the Deputy City
Attorney regarding the following cases:

Farr v. S.F. Rent Board, No. A032602 and Flowers v. S.F. Rent
Board, No. A032599 (consolidated in the Court of Appeal)
Parkmerced Residents Organization v. S.F. Rent Board, No. 864160
2090 Broadway Associates v. S.F. Rent Board, No. 869755

Pursuant to the stipulation filed with the Superior Court in the 2090
Broadway Associates case, the Board will schedule a hearing before the
Commissioners at a date agreeable to the parties.

V. Appeal Hearings

A. 1471 - 15th Street H002-06A

The Board accepted the landlords' appeal on April 14, 1987. The
hearing commenced at 6:35 p.m. Both parties appeared with their
attorneys. Three witnesses appeared for the landlord and an
interpreter appeared for the tenant.

1208A

The hearing officer's decision granted a \$100/month decrease (\$25 each for mold problems, lack of pest control, unrepaired water sewage pipe, and wall holes and cracks) effective August 1, 1986, following issuance of a prior Board decision finding the landlords failed to repair and maintain the premises. Testimony and argument at the appeal hearing focused on the condition of the unit and the cause of the problems.

The hearing concluded at 8:14 p.m. After conducting the other scheduled hearings, the Board discussed the case and approved the following motion:

MSC: To reduce the decrease granted by the hearing officer to \$25/month based on the unrepaired sewage pipe.
(Carrico/Curran: 5-0)

B. 1945-55 Lyon Street H002-13A

The Board accepted the landlord's appeal on April 28, 1987 for a hearing with special instructions for the landlord to prepare more complete evidence in support of the proposed rent increases on both issues of comparables (including length of tenancy) and operating and maintenance costs. Prior to the hearing, Commissioner Carrico requested to be excused from this case.

MSC: To excuse Commissioner Carrico from consideration of this appeal. (Curran/Armstrong: 4-0)

The hearing began at 8:27 p.m. The landlord's attorney appeared, as well as five of the tenants, one of whom was represented by an attorney. The landlord, who inherited this 6-unit building from her employer, seeks market rents to defray the inheritance taxes and her probate litigation costs. The hearing closed at 9:30 p.m. The Commissioners resumed its consideration of the case after hearing the next scheduled case. The Commissioners agreed that the landlord had not met her burden of proof on either of the issues.

MSC: To affirm the hearing officer's decision.
(Curran/Chan: 5-0)

C. 129 Lower Terrace H002-21A

On May 12, 1987 the Board accepted the landlords' appeal challenging the voidance of increases imposed in 1982 and 1986, both less than 12 months after the previous increases. Both parties appeared and represented themselves. Following some discussion about possible settlement, the hearing began at 9:45 p.m. During discussion subsequent to the hearing, the Commissioners agreed that the 1982 increase, while imposed one month too early, was in substantial compliance with the law since it was less than the allowable 7%.

MSC: To establish the allowable rent as \$550/month effective August 1, 1985, with an allowable increase of 8% (including the 1986 banked 4%) effective no earlier than August 1, 1987, with payments due henceforth on the first of each month. (Payne/Curran: 5-0)

VI. Consideration of Appeals

A. 455 Eddy St./350 Turk St. H002-28A

The Board again continued this matter for 2 weeks.

B. 2 Alhambra Way #101 H002-71R

The tenant appeals the denial of his rent decrease petition based on the landlord's conversion of central steam heating to individual unit electric heaters. The hearing officer found that the tenant failed to provide adequate documentation to support a decrease. On appeal the tenant submits some documentation with his explanation for failing to provide it earlier.

MSC: To deny the appeal. (Curran/Carrico: 3-2; Chan and Marshall dissenting.)

C. Stonestown Tenants Assn. H002-70R

This appeal on behalf of the tenants challenging the decision granting rent increases also was continued for two weeks.

D. 2170 Filbert St. H002-39A

The manager appeals the decision denying the landlord's operating and maintenance increase. The hearing officer found that the landlord failed to provide adequate documentation of 1985 expenses and that the landlord's choice of calculation periods produced exaggerated debt service costs.

MSC: To accept the appeal and remand the case to another hearing officer with instructions to consider no change in the debt service costs when considering the aggregate of all other actual operating expenses for two consecutive 12-month periods. (Carrico/Payne: 5-0)

E. 1355 Bay Street H002-32A

The landlord appeals the hearing officer's decision granting the tenants a 5% rent reduction limited to a 3-month period of the landlord's delay in installing a heater in one of the rooms.

MSF: To deny the appeal. (Curran/Chan: 2-3; Carrico, Payne and Marshall dissenting.)

MSC: To accept the appeal and remand the case to another hearing officer with instructions that the sense of the Board is that there is no significant or substantial decrease in housing services. (Payne/Carrico: 4-1; Curran dissenting.)

VII. Old Business

900 Chestnut

H002-47R through H002-60R

The Board heard these consolidated tenant appeals on May 12, 1987. President Marshall and Commissioner Carrico submitted a memo to the Commissioners describing their recommendation to reduce the allowable capital improvement passthrough from approximately \$300 to approximately \$200/month per unit. They also recommended a gradual imposition of the passthrough over either 2 years or 4 years based on the special circumstances of this case.

MSC: To reduce the allowable passthrough costs as set forth in the memo and allow the landlord to impose 1/4 of the certified passthrough this year, another 1/4 next year, another 1/4 in the third year, and the final 1/4 in the fourth year. (Chan/Curran: 3-2; Carrico and Payne dissenting.)

VIII. Communications

- A. The Board received an invitation from the Small Business Advisory Commission to attend a free commercial leasing seminar for small businesses and landlords on June 17th.
- B. The Board received and granted a request from the landlord's attorney to postpone the appeal hearing for 197 Parker [H002-26A] from June 16th to June 30th.
- C. The Board received the following written decisions and continued their review for approval next week:

2925 Pierce St.	H002-39R through H002-41R (decided 4/14/87)
1137 Webster St. #1	H002-03A (decided 5/5/87)
3740 - 25th St. #501	H004-36E (decided 4/28/87)

IX. Director's Report

The Executive Director submitted the May 1987 statistics on petitions filed, hearings held and eviction notices received.

X. Consideration of Allegations of Wrongful Eviction

Requests for Reconsideration (continued from 5/19/87)

- A. 2614 Gough #2 H004-87E
- B. 42 Henry H002-29E

The Board again continued these cases to its next meeting.

XI. Calendar Items

June 16, 1987

4 appeal considerations

2 appeal hearings:

6:00--365 Guerrero

H002-23A (accepted 5/12/87)

6:30--2121 Pierce

H002-22A (accepted 5/12/87)

Eviction reconsiderations (continued from 5/19 and 6/9/87):

2614 Gough St. #2

H004-87E

42 Henry

H002-29E

June 23, 1987

Executive Session

8 appeal considerations (including 2 continued from 6/9/87)

June 30, 1987

6 appeal considerations

1 appeal hearing: 197 Parker H002-26A (accepted 5/19/87 and
rescheduled from 6/16)

XII. Adjournment

President Marshall adjourned the meeting at 11:40 p.m.

NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,

June 16, 1987

State Building, 350 McAllister St. #1158

AGENDA

I. Call to Order

II. Roll Call

III. Approval of the Minutes

IV. Consideration of Appeals

A. 244 Fair Oaks

H002-34A

B. 2620 Laguna St. #8

H002-35A

C. 1391 31st Avenue

H002-36A

D. 1677-1681 Haight St. #2A

H002-31A

V. Communications

VI. Director's Report

VII. Remarks from the Public

VIII. Consideration of Allegations of Wrongful Evictions

Requests for Reconsideration (cont. from 5/19/87 and 6/9/87)

A. 2614 Gough #2

H004-87E

B. 42 Henry

H005-64E

IX. Old Business

X. New Business

XI. Appeal Hearings

6:00 A. 365 Guerrero

H002-23A (accepted 5/12/87)

6:30 B. 2121 Pierce St.

H002-22A (accepted 5/12/87)

XII. Calendar Items

XIII. Adjournment

1209A

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NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,

June 16, 1987

State Building, 350 McAllister St. #1158

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals
 - A. 244 Fair Oaks H002-34A
 - B. 2620 Laguna St. #8 H002-35A
 - C. 1391 31st Avenue H002-36A
 - D. 1677-1681 Haight St. #2A H002-31A
- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions
 - Requests for Reconsideration (cont. from 5/19/87 and 6/9/87)
 - A. 2614 Gough #2 H004-87E
 - B. 42 Henry H005-64E
- IX. Old Business
- X. New Business
- XI. Appeal Hearings
 - 6:00 A. 365 Guerrero H002-23A (accepted 5/12/87)
 - 6:30 B. 2121 Pierce St. H002-22A (accepted 5/12/87)
- XII. Calendar Items
- XIII. Adjournment

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, June 16, 1987
at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Marshall called the meeting to order at 5:34 p.m.

II. Roll Call

Commissioners Present:	Alviar; Marshall; Payne; Waller.
Commissioners not Present:	Armstrong; Carrico; Curran; How
Staff Present:	Hernandez; Wolf

Commissioner Chan appeared on the record at 5:41 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of June 9, 1987 as written
(Payne/Alviar: 3-0).

IV. Consideration of Appeals

A. 244 Fair Oaks H002-34A

The landlord appeals the hearing officer's decision refunding the tenant sums overpaid due to the imposition of incorrectly calculated utility pass-throughs, imposed at times not coinciding with the annual rent increases. The landlord maintains that the tenant's rent history has substantially been in compliance with the prescribed guidelines and requests that only the amounts in excess of the allowable amounts be refunded.

MSC: To accept this appeal and schedule a hearing before the Board (Payne/Alviar: 3-0).

B. 2620 Laguna Street #8 H002-35A

The landlord appeals the hearing officer's decision declaring a proposed 45.8% increase null and void. The landlord's basis for the rent increase is a change in the number of occupants in the unit, as the tenant married and her husband moved in with her. The tenant maintains that no breach of a rental agreement existed. The landlord was not present at the hearing and alleges that he did not receive notice.

MSC: To remand this case for a new hearing before another hearing officer (Payne/Alviar: 3-0).

C. 1391 31st Avenue

H002-36A

The landlord appeals the hearing officer's award of a rent reduction due to the removal of one-half of the garage for storage space, the use of which had been orally agreed to by the parties. The landlord maintains that use of the garage was not included in the original rental agreement. The hearing officer found that there was no wrongful eviction due to habitual late payment of rent by the tenant.

MSF: To deny this appeal (Alviar/Marshall: 2-2; Chan, Payne dissenting).

Upon returning to this case later in the agenda, the following motion was made and carried:

MSC: To deny this appeal (Chan/Payne: 4-0).

D. 1677-1681 Haight St. #2A H002-31A

The landlord appeals the hearing officer's decision granting the pass-through of certain capital improvements but denying others due to the tenant's not having resided in the unit for the requisite six-month period prior to commencement of the work. The landlord maintains that his inheritance of the property constituted a change in ownership such that Section 7.12(b) of the Rules and Regulations should not apply; the hearing officer found that the transfer of the property from the landlord to himself as sole trustee did not constitute a change in ownership within the meaning of that Section.

MSC: To accept this appeal and schedule a hearing before the Board limited to the following three issues: when the tenant moved into the unit; the change in ownership for purposes of application of Section 7.12(b) of the Rules and Regulations; and the landlord's role in management of the property prior to the change in ownership (Payne/Chan: 4-0).

V. Appeal Hearings:

A. 365 Guerrero

H002-23A

The Board accepted the landlord's appeal on May 12, 1987. The hearing commenced at 6:04 p.m. The tenant appeared with her attorney and a witness. The landlord appeared with his representative.

The hearing officer's decision granted the tenant a 5% rent reduction due to the loss of use of the roof/deck for sun-bathing purposes, as the service was abolished when the landlord re-roofed with a tar and gravel composition. The landlord maintained at the hearing that the tenant was not supposed to use the roof and that he had been forced to do the re-roofing by the Bureau of Building Inspection. The tenant argued that she had always been allowed to use the galvanized deck area and that its removal deprived her of the only access to open space in

conjunction with her unit.

The hearing concluded at 6:50 p.m. The Board discussed the case and made the following motions:

MSF: To vacate the hearing officer's decision and find that no substantial decrease in housing services exists. (Payne/Alviar: 2-2; Chan/Marshall dissenting).

MSC: To continue discussion of this case to later in the agenda; and, if there is no fifth vote, to continue this case until next week's meeting (Chan/Payne: 4-0).

As no fifth voting member arrived, this case was continued for one week.

B. 2121 Pierce Street H002-22A

The Board accepted the landlord's appeal on May 12, 1987. The hearing commenced at 7:00 p.m. The landlord, a merchant seaman, was not in attendance but was represented by his sister. The tenant appeared with her attorney.

The hearing officer's decision granted a retroactive rent reduction due to decreased housing services. The landlord maintains that the building is exempt due to owner-occupancy and appeals the jurisdictional question only, which was the focus of testimony and documentation produced at the hearing.

The hearing concluded at 7:29 p.m. It was the consensus of the Board and the parties that the question was difficult, if not impossible, to resolve without the landlord being present. Therefore, the Board passed the following motion:

MSC: To continue this case until such time as the landlord can make an appearance, but for a period of time not longer than two months (Payne/Alviar: 4-0).

VI. Communications

The Board approved the appeal decisions for the cases at 1137 Webster #1 (H002-03A), 2925 Pierce (H002-39R-H002-41R) and 3740 25th Street #501 (H004-36E), which were signed by President Marshall.

VII. Director's Report

The Executive Director reported that the Budget Analyst had recommended no cuts in the Rent Board budget. Additionally, prospective hearing officer candidates are being interviewed, and a training session is scheduled for June 26, 1987, from 1:00 to 5:00 p.m.

VII. Considerations of Allegations of Wrongful Eviction Requests for Reconsideration

A. 2614 Gough #2

H004-87E

The landlord requests reconsideration of the hearing officer's recommendation that the attempted eviction of the tenant due to the presence of a dog in the unit was wrongful. The tenant maintained that she had verbal permission from the prior owner, and had had the pet for the entire ten years of her occupancy, although the new owner produced an affidavit to the contrary at the hearing. The eviction action has been dropped and rent is being accepted from the tenant, but reconsideration is still being pursued as the landlord feels that damaging statements appear in the hearing officer's decision.

MSC: To deny the request for reconsideration.
(Alviar/Chan: 4-0).

B. 42 Henry

H005-64E

The landlord requests reconsideration of the hearing officer's recommendation that the tenant was covered by the protections of the Rent Ordinance and vacancy decontrol did not apply due to the death of his mother, the original tenant. Therefore, the tenant could not be evicted for failure to pay an unlawful rent increase. The eviction action has been settled and rent in the original amount is being accepted. The landlord requests reconsideration due to alleged bias on the part of the hearing officer.

MSC: To deny the request for reconsideration (Chan/Alviar:
3-1; Payne dissenting).

IV. New Business

President Marshall brought up the possibility of scheduling Board meetings bi-weekly instead of weekly, which was briefly discussed.

V. Calendar Items

June 23, 1987

Executive Session.

8 appeal considerations (including 2 continued from 6/9/87)

June 30, 1987

6 Appeal considerations

3 Appeal hearings:

6:00 197 Parker H002-26A accepted 5/19/87

6:30 244 Fair Oaks H002-34A accepted 6/16/87

7:00 1677-1681 Haight #2A H002-31A

VI. Adjournment

President Marshall adjourned the meeting at 7:52 p.m.



NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,
June 23, 1987

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JUN 24 1987

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State Building, 350 McAllister St. #1158

AGENDA

- I. Call to Order
- II. Roll Call
- III. Executive Session
- IV. Approval of the Minutes
- V. Consideration of Appeals

DOCUMENTS DEPT.

JUN 24 1987

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|----|--|--------------------------|
| A. | Stonestown | H002-70R (con't 6/9/87) |
| B. | 455 Eddy/350 Turk St. | H002-28A (cont'd 6/9/87) |
| C. | 395 Capp St. #1, 4, 5, & 10 | H002-39A |
| D. | 1329 Grove St. | H002-38A |
| E. | 405 6th Ave. #2, 3, 5 through
12, 14, 15 & 18 | H002-37A |
| F. | 395 Capp St. #4 | H002-73R |
| G. | 239 Collins | H002-72R |
| H. | 1600 Filbert St. | H002-40A |

- VI. Communications
- VII. Director's Report
- VIII. Remarks from the Public
- IX. Consideration of Allegations of Wrongful Evictions
- X. Old Business
 - 365 Guerrero St. H002-23A
 - Appeal hearing held 6/16/87
- XI. New Business
- XII. Appeal Hearing
- XIII. Calendar Items
- XIV. Adjournment

1216A



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, June 23, 1987
at 5:30 p.m. at the State Building, 350 McAllister St. #1158

DOCUMENTS DEPT.

JUN 29 1987

SAN FRANCISCO
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President Marshall called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present:	Alviar; Carrico; Chan; How; Marshall; Payne.
Commissioners Not Present:	Armstrong; Curran; Waller.
Staff Present:	Hernandez.

III. Approval of the Minutes

The Board agreed to continue the approval of the Minutes of June 16, 1987 until next week.

IV. Executive Session

Pursuant to Government Code Section 54956.9(a) the Board went into executive session for discussion and status report from the Deputy City Attorney regarding impending litigation.

V. Consideration of Appeals

A. Stonestown

H002-70R

Thirteen tenants appeal the hearing officer's decision granting rent increases for capital improvements and for increased operating expenses, primarily due to insurance costs. The tenants maintain that 1) the landlord's choice of comparison periods distorts the amount of increase in expenses; 2) an accrual rather than cash based accounting system should be used; 3) tenants who moved into the property after commencement of the adjustment year period should not be assessed the full amount of cost increases; 4) management cost increases were "paper" rather than real; 5) cosmetic work performed by a landlord's ordinary maintenance staff is an operating expense and not a capital improvement; and 6) the Regulations do not require tenants to prove actual code violation citations in order to demonstrate that capital improvements were required by deferred maintenance.

MSF: To accept the tenants' appeal on the issues of 1) garbage bill allocation; 2) assessment of operating and maintenance increase to tenants who moved in during the adjustment year period; 3) management cost (Rent Control Administrative Service); and 4) the use of calendar year 1987 for passthrough year (Chan/Marshall: 2-3; Alviar, Carrico, Payne dissenting).

1220A

MSC: To accept the tenants' appeal for hearing before the Board on the first three issues (as above) (Chan/Payne: 5-0).

MSC: To deny the appeal on the capital improvement pass-through (Carrico/Payne: 4-1; Chan dissenting).

B. 455 Eddy/350 Turk

H002-28A

The landlord appeals the hearing officer's ruling that the landlord cannot impose a 50% rent increase on the garage spaces rented by the tenants, as these spaces are a housing service protected by the Ordinance. The hearing officer held that even though the property owner has leased the garage area to a master-lessor, the garage has been operated for the benefit of the tenants and rented almost exclusively to them, and that garage problems have often been handled by the apartment management - thus invalidating the claim of the apartment owner and the garage lessor being separate interests. On appeal the landlords argue that there is no legal connection between the rental of a garage and an apartment, the landlord of one is not the landlord of the other in this case, and, therefore, the garages are not housing services connected to the residential units.

MSC: To accept the appeal for hearing before the Board with a time limitation of ten minutes for each side to argue the issues (Chan/Carrico: 5-0).

C. 395 Capp St. #1, 4, 5, & 10

H002-39A & H002-73R

The landlord appeals the hearing officer's decision granting a capital improvement pass-through, but ordering refunds to tenants for illegal rent increases. The landlord alleges that he had no notice that issues other than capital improvements would be raised at the hearing, and therefore was not prepared to show that certain of the increases at issue were lawful.

The tenant appeals the hearing officer's decision granting a rent increase due to capital improvements done to her unit. The tenant objects to paying the increase because she alleges that the work was not necessary for reasons of health or safety.

MSC: To accept the landlord's appeal for hearing before the Board (Payne/Alviar: 5-0).

MSC: To accept the tenant's appeal for hearing before the Board (Chan/Alviar: 5-0).

D. 1329 Grove St.

H002-38A

The landlord appeals the decision of the hearing officer granting a rent reduction for insufficient garbage receptacles, a kitchen drain pipe leaking sewage into the back yard and electrical problems. The landlord alleges that repairs were performed in a timely manner and that the debris problem would not be rectified by the provision of more garbage cans.

MSC: To accept the appeal and to remand the case to the same hearing officer with instructions not to consider the issues as a decrease in services (Payne/Carrico: 5-0).

E. 405 6th Ave.

H002-37A

The landlord appeals the hearing officer's decision granting increases for certain capital improvements but denying an increase based on operating expenses due to insufficient documentation. The landlord alleges that the necessary cost breakdowns were provided, and that checks verifying the insurance increase could have been provided if requested.

MSC: To accept the appeal and remand the case to the same hearing officer for re-consideration of the evidence (Payne/Carrico: 5-0).

F. 239 Collins

H002-72R

The tenant appeals the decision of the hearing officer denying his claim that removal of storage space owned by his landlord in an adjacent building on the same lot constitutes decreased housing services. The tenant alleges that use of the space was included in his monthly rent as part of a verbal agreement with the landlord.

MSC: To deny the appeal (Carrico/Payne: 5-0).

G. 1600 Filbert Street

H002-40A

The landlords appeal the decision of the hearing officer halving the amount of a capital improvement pass-through due to the landlord's deferred maintenance. The landlords allege that the delay in having the work done was due to conflicting diagnoses of the problem, difficulty in obtaining a qualified contractor, and the rainy season.

MSC: To accept the appeal and schedule a Board hearing on the issues stated in the appeal (Payne/Carrico: 3-2; Chan/Marshall dissenting).

VI. Communications

A. The Board received a letter from the landlord's attorney requesting that the Board reconsider its decision on 900 Chestnut. After debating the legality of the Board's ability to reconsider a final decision, the Board took no further action.

B. The Board approved its appeal decision regarding 1945-1955 Lyon Street (H002-13A) which was signed by President Marshall.

VII. Director's Report

The Executive Director reported that the Finance Committee had approved the Rent Board budget. Additionally, prospective hearing officer candidates are being interviewed, and a training session is scheduled for June 26, 1987 from 1:00 to 5:00 p.m. The Commissioners were invited to participate.

VIII. Old Business

The Board continued its deliberation on 365 Guerrero Street for three weeks pending Commissioner Carrico's auditing of the tape of the hearing.

IX. New Business

The Board discussed possible Ordinance and Rules changes concerning the null and void provisions of the Ordinance. It will be considered in future meetings.

X. Calendar Items

June 30, 1987

6 appeal considerations

1 Appeal hearing:

6:00 197 Parker H002-26A (accepted 5/19/87)

July 7, 1987

4 appeal considerations

2 appeal hearings:

6:00 244 Fair Oaks H002-34A (accepted 6/16/87)

6:30 1677-1681 Haight H002-31A (accepted 6/16/87)

July 14, 1987

5 appeal considerations

3 appeal hearings:

6:00 2090 Broadway (pursuant to court stipulation)

6:30 455 Eddy/350 Turk H002-28A (accepted 6/23/87)

7:00 395 Capp St. #4 H002-73R/H002-39A (accepted 6/23/87)

July 21, 1987

3 appeal considerations

1 appeal hearing:

1600 Filbert St. H002-40A (accepted 6/23/87)

July 28, 1987

appeal hearing: Stonestown (accepted 6/23/87)

XI. Adjournment

President Marshall adjourned the meeting at 7:30 p.m.
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6/30/87

NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,
June 30, 1987

State Building, 350 McAllister St. #1158

AGENDA

I. Call to Order

DOCUMENTS DEPT.

II. Roll Call

JUN 29 1987

III. Executive Session

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IV. Approval of the Minutes

V. Consideration of Appeals

A.	669-A & 671-A Castro St.	H002-43A
B.	1349 3rd Avenue	H002-44A
C.	49 Liberty St. #4	H002-41A
D.	2011 Vallejo St. #5	H002-42A
E.	3350 21st Street	H002-46A
F.	999 Fell St. #1	H002-45A

VI. Communications

VII. Director's Report

VIII. Remarks from the Public

IX. Consideration of Allegations of Wrongful Evictions

Report from Staff

A.	388 - 5th St. #5	H006-10E
B.	254 Dolores St. #2	H006-01E
C.	11 High St. #102	H006-27E

X. Old Business

Discussion of null and void increase provisions.

XI. New Business

XII. Appeal Hearing

6:00 197 Parker H002-26A (accepted 5/19/87)

XIII. Calendar Items

XIV. Adjournment


 SF
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 #2
 6/30/87

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
 RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, June 30, 1987
 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

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SAN FRANCISCO
PUBLIC LIBRARYI. Call to Order

President Marshall called the meeting to order at 5:34 p.m.

II. Roll Call

Commissioners Present: Armstrong; Carrico; Marshall;
 Waller.
 Commissioners not Present: Alviar; How.
 Staff Present: Hernandez; O'Hearn.

Commissioner Curran appeared at 5:35 p.m. Commissioners Chan and Payne
 appeared at 5:40 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of June 16, 1987 as written.
 (Carrico/Armstrong: 3-0.)

In reviewing the minutes of June 23, 1987, President Marshall
 questioned the wording on the motions on the Stonestown appeal. Since
 the landlord compared the calendar years of 1985 and 1986, the
 Commissioners agreed that the failed motion was unclear in referring to
 the use of calendar year 1987 for passthrough year. With regard to the
 passed motion, Commissioner Chan agreed with President Marshall that
 the Board had agreed to allow argument only on the landlord's choice of
 comparison years. Since Commissioners Payne and Carrico did not agree,
 the Board continued its approval of the minutes until after
 consultation with Commissioners Alviar and How at the next meeting.

IV. Consideration of Appeals

A. 669-A & 671-A Castro St. H002-43A

The property manager appeals on behalf of the owner who was granted
 capital improvement increases exceeding \$200 per month per unit. The
 hearing officer disallowed some of the costs, mostly for work done in
 the individual units because the tenants objected due to lack of
 necessity for reasons of health or safety.

MSC: To deny the appeal. (Curran/Armstrong: 4-1; Payne
 dissenting.)

1224A

B. 1349 Third Ave.

H002-44A

The landlords object to the stipulated decision reached at the hearing on the tenant's petition. They request a new hearing based on their claim that the tenant added issues not in the petition and that the tenant gave perjured testimony at the hearing.

MSC: To deny the appeal. (Payne/Curran: 4-1; Chan dissenting.)

C. 49 Liberty St. #4

H002-41A

The landlord disputes the hearing officer's award of a \$20/month rent decrease for the tenants' loss of a garden storage shed. The shed was built in 1976. The original tenant of unit 4 began her tenancy in 1979 and her husband became her co-tenant in 1983. The present landlord purchased the property in 1985 and terminated the tenants' use of the shed as of March 1, 1987. The landlord bases his appeal on the S.F. Fire Code which prohibits the storage of paints or volatile liquids at the property.

MSF: To accept the appeal and remand the case to the hearing officer with instructions to consider that the loss of use of the shed does not constitute a decreased housing service because it was not included in the rent when the tenant moved in. (Carrico/Payne: 2-3; Chan, Curran and Marshall dissenting.)

MSC: To deny the appeal. (Chan/Curran: 3-2; Carrico and Payne dissenting.)

D. 2011 Vallejo St. #5

H002-42A

The hearing officer granted a 10% rent decrease effective March 1, 1986 (one year prior to the tenant's filing of the petition) for ceiling leaks which began in 1982. The landlord appeals complaining that the decrease is excessive and unwarranted.

MSC: To accept the appeal and remand the case to the same hearing officer with instructions to check the calculations for the decrease award and to determine if and when the leaks have been repaired. (Curran/Chan: 5-0.)

E. 3350 21st St.

H002-46A

The landlord appeals the hearing officer's decision that this 4-unit building was not owner-occupied for six continuous months prior to December 19, 1986. The landlord asserts various errors, one of which the tenants do not dispute either.

MSC: To deny the appeal, but correct any technical errors in the decision. (Curran/Marshall: 5-0.)

F. 999 Fell St. #1

H002-45A

The hearing officer granted a 10% rent reduction from September 1986 through March 1987 based on lack of weatherproofing and pest control, in addition to postponing any annual increase until those conditions are remedied. The landlord complains that the hearing officer erred by (1) considering ex parte evidence after the hearing and (2) failing to credit a prior decrease granted by the landlord.

MSC: To excuse Commissioner Carrico from consideration of this appeal. (Payne/Curran: 5-0.)

MSC: To accept the appeal and remand the case to the same hearing officer for further investigation of the evidence and clarification of the base rent, including any prior rent decrease. (Payne/Chan: 4-0.)

V. Appeal Hearing

197 Parker

H002-26A

The Board accepted the landlords' appeal on May 19, 1987. The case involves the tenants' petition protesting rent increases of 100% in 1983, 9.1% in 1984 and 8.3% in 1986. The primary controversy centered on the 1983 increase agreed to by the tenants when they were under threat of eviction.

The appeal hearing commenced at 6:26 p.m. Both parties were present with their attorneys and interpreters. Witnesses also appeared for the landlords. Both parties testified concerning the earlier eviction attempt and the eventual written agreement approved by both of their attorneys to increase the rent from \$275.60 to \$550.00 per month.

After the hearing concluded at 7:50 p.m., the Commissioners discussed the case. Although the written agreement for the increase contained no recital of a waiver of the tenants' rights under the Rent Ordinance, the Commissioners believed that the parties' representation by attorneys gave the impression of a knowing and voluntary waiver negotiated at arms length. The Commissioners also discussed the consideration for the increase and made the following determination.

MSC: To find the rent increase imposed in July 1983 to be lawful since it was based on consideration and both parties were represented by attorneys, but to find that the subsequent increases are null and void.
(Carrico/Curran: 5-0.)

VI. Communications

- A. A memo from the Mayor concerning appearances before State Legislative Committees.
- B. A memo from the Deputy Director listing the new hearing officers.

C. Withdrawal of appeals:

- 1. 1681 Haight St. #2A H002-31A (accepted 6/16/87)
- 2. 4172 Mission St. H002-12A (heard 5/19/87)

D. Appeal Decisions- approved by the Board

- 1. 129 Lower Terrace H002-21A (heard 6/9/87)
- 2. 1471 - 15th St. #3 H002-06A (heard 6/9/87)

VII. Director's Report

The Executive Director reported on the favorable decision from the Court of Appeals in Anderson v. S.F. Rent Board issued and certified for publication on June 25, 1987.

The Director also noted the beginning of the 9th fiscal year for the Rent Board.

VIII. Consideration of Allegations of Wrongful Evictions

Report from Staff

- A. 388 - 5th St. #5 H006-10E
- B. 254 Dolores St. #2 H006-01E
- C. 11 High St. #102 H006-27E

Based on the recommendation of staff, the Board postponed its consideration of 254 Dolores St. #2 for consolidation with the landlord's Request for Reconsideration of the hearing officer's recommendation.

With regard to the remaining two cases scheduled, staff recommends that the Board consider referrals to the District Attorney if the landlords continue to act improperly or pursue the evictions.

MSC: To adopt staff's recommendation concerning 388- 5th St. and 11 High St. (Curran/Payne: 5-0.)

IX. Calendar Items

July 7, 1987

4 appeal considerations

1 appeal hearings:

6:00 244 Fair Oaks H002-34A (accepted 6/16/87)

July 14, 1987

5 appeal considerations

3 appeal hearings:

6:00 2090 Broadway (pursuant to court stipulation)

6:30 455 Eddy/350 Turk H002-28A (accepted 6/23/87)

7:00 395 Capp St. #4 H002-73R/H002-39A (6/23/87)

July 21, 1987

3 appeal considerations

1 appeal hearing:

1600 Filbert St. H002-40A (accepted 6/23/87)

X. Adjournment

President Marshall adjourned the meeting at 8:25 p.m.

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7/7/87

NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,
July 7, 1987

State Building, 350 McAllister St. #1158

AGENDA

DOCUMENTS DEPT.

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SAN FRANCISCO
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- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals
 - A. 635 Scott St. #5, 6 & 8 H002-75R through H002-77R
 - B. 4155 Army St. #16 H002-74R
 - C. 1100 Gough St. #19D H002-48A
 - D. 67 Fresno St. #3 H002-47A
- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions
 - Report from Staff
 - A. 2438 Lake St. #6 H006-72E
 - B. 1445 Eddy St. H006-19E
 - C. 1640 Broderick St. H006-92E
 - D. 833-A Union St. H005-74E
- IX. Old Business
 - Discussion of null and void increase provisions.
- X. New Business
- XI. Appeal Hearing
 - 6:00 244 Fair Oaks H002-34A (accepted 6/16/87)
- XII. Calendar Items
- XIII. Adjournment

1225A



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, July 7, 1987
at 5:30 p.m. at the State Building, 350 McAllister St. #1158

DOCUMENTS DEPT.

I. Call To Order

JUL 10 1987

President Polly Marshall called the meeting to order, 5:36 P.M. SAN FRANCISCO
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II. Roll Call:

Commissioners Present: Chan, Curran, How, Marshall
Commissioners Not Present: Alviar, Anderson, Waller
Staff Present: Hernandez, Wicks

Commissioner Payne appeared on the record at 5:44 P.M. and
Commissioner Carrico appeared at 6:05 P.M. Commissioner Payne went
off the record at 6:55 P.M.

III. Approval of the Minutes

June 23, 1987: It was the consensus of the Board to review the
materials concerning the matter in dispute; at the July 14, 1987
meeting the Board will either approve or amend the Minutes or
reconsider the case for final write-up in the Minutes.

June 30, 1987: MSC: To approve the Minutes of June 30,
1987, as written. (Chan/Marshall:
4-0)

IV. Consideration of Appeals

A. 635 Scott St. #5, 6 & 8 H002-75R through H002-77R

Three tenants appealed the Hearing Officer's decision which granted
increases for capital improvements and a banked amount of 5.4%, as
well as the current annual 4 % increase. The tenants argued that
the 5.4% included the annual 4% increase plus a banked 1.4%
increase, and that the additional 4% granted by the Hearing Officer
was in error. The landlord's petition substantiated the tenants'
claim.

MSC: To accept the appeal and have staff make the necessary
technical correction, limiting the annual increase to
4% plus 1.4% banked increase. (Curran/How: 4-0)

B. 4155 Army St. #16 H002-74R

The tenant prevailed on his petition for decreases in service and
failure to repair, with a resulting \$10 per month rent reduction for
decreased maintenance, faulty plumbing, and lack of weatherproofing;
1227A

the current rent increase was also disallowed until repairs had been effected. On appeal the tenant argued that the award was only a "token remedy" and did not compensate for damaged property or increased utility bills, and did not offer an incentive to the landlord to make other needed repairs.

MSC: To uphold the Hearing Officer and deny the appeal.
(Curran/How: 4-0)

C. 1100 Gough St. #19D

H002-48A

The landlord appealed the ruling of the Hearing Officer which dismissed certain tenant claims but awarded a 5% rent decrease for one year's loss of a previously furnished service. The Hearing Officer found that management no longer held over-flow mail, special delivery, or packages for 7 days before returning them to the Post Office, as had been the practice. There appeared to be a pattern of discriminating against those tenants holding office in and active in the tenants' association. On appeal the landlord complained that the fault was with the mailman, not management. In rebuttal the tenant--the immediate past president of the association--argued that her professional needs mandate receiving important special delivery and express mail at her residence while she is traveling on business.

MSC: To remand the case to the same Hearing Officer with instructions to make a finding of whether or not the letter carrier gives mail to the manager. If not, the Hearing Officer will rehear the issue of mail service. (Chan/Payne: 5-0)

D. 67 Fresno St. #3

H002-47A

A Hearing Officer's negation of a rent increase from \$433 to \$650 was appealed by the landlord. The tenant alleged that he had resided in the unit as a cotenant since mid-1985, sharing the unit with a tenant in residence since 1979. When the first tenant moved, the landlord approached the remaining tenant with a new rental agreement and the increase. The tenant initially paid part of the higher amount but filed with the Rent Board and ultimately received a 3-day notice for failure to pay the increase. The Hearing Officer found credible the tenant's statement that he had conversed with the landlord on several occasions, in rebuttal of the landlord's insisting that he was not aware of the tenant or his occupancy and was therefore entitled to set the rent for him as a new tenant. On appeal the landlord maintained that the signing of the new rental agreement superseded any prior implied or oral agreement.

MSC: To uphold the Hearing Officer and deny the appeal.
(Curran/Payne: 4-1; Commissioner Chan dissenting)

V. Communications

- A. The Commissioners were given the draft copy of the decision for 900 Chestnut. It was the consensus of the Board to review the decision during the week.
- B. The landlord involved in eviction matters at 1400 Washington wrote the Board asking that they reconsider continuing to investigate or take further action in the eviction cases. The Board decided to continue active involvement and to write the landlord to that effect.

VI. Director's Report

- A. Executive Director Ricardo Hernandez distributed the monthly stastics for June 1987 and stastics for the past eight years.
- B. Mr. Hernandez mentioned that the Deputy Director will be at a management training seminar for three days this week.

VII. Consideration Of Allegations Of Wrongful Evictions

A. Staff Report

- 1. 2438 Lake St. #6 [H006-72E]

The Hearing Officer found a wrongful eviction because of continuing, legally invalid attempts by the landlords to evict the tenants, including: repeated service of legally defective termination notices, totally unsupported reasons for eviction, and strong evidence of racial discrimination.

Recommendation:

To write a very strong cautionary letter to the landlords, informing them that the Board will immediately hear the case with the intention of referring the matter to the District Attorney if the eviction is pursued.

- 2. 1445 Eddy St. [H006-19E]

The landlord in this case maintained that the Rent Board had no jurisdiction since he had expended large sums to rejuvenate the run-down building, and therefore the building was exempt from the Ordinance. Since he had not filed for substantial rehabilitation certification/exemption, the Hearing Officer held that the property remained under the purview of the Ordinance. Accordingly, the owner's termination notice to the tenant--for her refusal to pay a rent increase because of the landlord's failure to make necessary, requested repairs--was legally defective.

Recommendation: To write the landlord an informational letter reminding him that the property remains under the jurisdiction of the Ordinance until substantial rehabilitation certification is petitioned for and granted.

3. 1640 Broderick [H006-92E]

The involved tenants resided in rooms of a shared flat in a four-floor, owner-occupied building. The landlord maintained that the property was exempt since there were four units; however, it was proved that the property had been divided into 11 "rooming house" units. In January 1987 the tenants made a written protest to a \$200 oral rent increase and complained of repair needs; the owner did not accept attempts to pay. Later a legally defective termination notice was served, followed by an Unlawful Detainer. The tenants prevailed on some of the issues in Court; others are pending.

Recommendation: To inform the landlords that the multi-unit property is under the jurisdiction of the Ordinance and to caution them to inform themselves of state and local law before taking further steps against their tenants.

4. 833-A Union St. [H005-74E]

The tenant took up residence with the landlord's mother in 1975 as a friend and roommate. She received periodic increases from her roommate; rent receipts were signed by the landlord. In 1986 the landlord's mother became ill and the tenant began shopping, preparing food, and otherwise caring for her roommate. After the roommate vacated because of serious ill health, the landlord attempted to increase the \$75 paid by the tenant to \$350. Although the tenant agreed to the increase if she could have a roommate, the landlord served her with an eviction notice as an unapproved tenant and mere employee-servant of his mother. Efforts at mediation by the Rent Board appeared to be successful, but the tenant vacated because of continuing unpleasantness.

Recommendation: To write the landlord a cautionary letter reminding him of his responsibility to act within the provisions of state and local law; to inform him that if the Rent Board learns of further improper actions, the District Attorney may be asked to investigate.

MSC: To accept the recommendations of the Hearing Officer and Staff. (Payne/Carrico: 5-0)

VIII. Appeal Hearing

244 Fair Oaks [H002-34A]

A hearing was scheduled for 6:30 P.M. and began at 6:50 P.M. Appearing were landlord-appellant Viking Lindhold, his attorney Christopher Brose, and tenant Lynn Kellner. The landlord had appealed the Hearing Officer's decision refunding the tenant sums overpaid because of the imposition of incorrect utility charges and annual increases over the allowed limits. The landlord maintained that he had substantially complied with the requirements of the law.

At the hearing before the Commissioners the tenant testified to two rent increases per year in violation of the law, as well as improperly calculated utility charges and excessive annual increases for several years. The landlord testified that his accountant gave the utility increase amounts to him after calculating the previous year's expenses; and that he gave the information to a realty company which issued all rent increases. His representative said they would stipulate to a refund of all utility increases and any annual increase amounts over the guidelines, for a total of \$483.64. After discussing the testimony and evidence, the Commissioners voted as followed:

MSC: To find the July 1985 rent increase null and void, as well the following increases; to refund all utility charges. The total refund is \$778.00.
(Carrico/Curran: 4-0)

IX. Old Business

The Commissioners continued their discussion of null and void provisions. They decided to review the matter at the next meeting.

X. Calendar Items

July 14, 1987

5 appeal considerations

3 appeal hearings:

6:00	2090 Broadway	(pursuant to Court stipulation)
6:30	455 Eddy/350 Turk	H002-28A (accepted 6/23/87)
7:00	395 Capp St. #4	H002-73R/H002-39A (6/23/87)

Old Business:

365 Guerrero	(heard 6/16/87)
Approval of the Minutes of June 23, 1987	
Null and void provisions of the Rent Law	
900 Chestnut	(heard May 12, 1987)

July 21, 1987

4 appeal considerations

1 appeal hearing:

1600 Filbert St.	H002-40A (accepted 6/23/87)
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XII. Adjournment

President Marshall adjourned the meeting at 7:30 P.M.



NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,

July 14, 1987

State Building, 350 McAllister St. #1158

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals

A.	1635 Anza St.	H002-49A
B.	96 Crestline	H002-50A
C.	1329 Sacramento St.	H002-78R
D.	300 Buchanan St.	H002-51A
E.	450 Alabama St.	H002-52A

- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions
- IX. Old Business

A.	365 Guerrero St.	H002-23A (Heard 6/16/87)
B.	Null and Void Provisions of the Rent Law	
C.	Minutes of June 23, 1987	
D.	900 Chestnut (heard 5/12/87)	

- X. New Business

- XI. Appeal Hearing

6:00	A.	2090 Broadway	H001-19R, H001-23R through H001-41R and H001-46R
6:30	B.	455 Eddy/350 Turk	H002-28A (accepted 6/23)
7:00	C.	395 Capp St. #4	H002-39A & H002-73R (6/23)

- XII. Calendar Items

- XIII. Adjournment
1230A

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 MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
 RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, July 14, 1987
 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

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President Marshall called the meeting to order at 6:43 p.m. JUL 17 1987

II. Roll CallSAN FRANCISCO
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Commissioners Present:	How; Marshall; Payne.
Commissioners not Present:	Alviar; Armstrong; Curran; Waller.
Staff Present:	Hernandez; O'Hearn.

 Commissioner Chan appeared at 6:43 p.m. Commissioner Payne left at
 7:10 p.m. and Commissioner Carrico appeared at 7:30 p.m.
III. Approval of the Minutes
 MSC: To approve the minutes of July 7, 1987 with corrections
 as to the motions on 1100 Gough St. and 244 Fair Oaks.
 (How/Payne: 3-0)

The Commissioners discussed the Stonestown motion in the minutes of
 June 23, 1987 after considering the appeals below and concluding the
 scheduled appeal hearings. The Board then approved the minutes of June
 23, 1987 with corrections to the failed motion on Stonestown reflecting
 the proper calendar year and additions to the first passed motion as
 follows:

 MSC: That the Board hear oral argument by counsel limited to
 5 minutes for each side, without any testimony, on the
 issue of whether the calculation period was chosen to
 create exaggerated results under Rules & Regulations
 Section 6.10(a), with any tenants' brief on the issue
 to be submitted to the Board and served on the
 landlord's counsel 5 days before the appeal hearing.
 (Chan/Marshall: 3-0)
IV. Consideration of Appeals

A. 1635 Anza St.

H002-49A

The landlord filed an appeal 13 days after the mailing of the hearing
 officer's decision, but did not submit the proper filing fee until 24
 days later, thus delaying the date stamp on his appeal form. (He had
 been out of town when staff mailed him a request for proper fees.) He
 claims that the hearing officer was not sufficiently objective and
 unbiased. Although the tenant has moved out, the landlord objects to
 the ongoing rent decrease of 34% granted for the loss of various
 housing services, including ceiling and window leaks and plumbing
 problems.

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MSW: To accept the appeal and schedule a Board hearing.
(How/Payne)

MSC: To accept the appeal and remand the case to another hearing officer with instructions to state whether the case concerns a reduction in services or a failure to repair, and if it concerns both, to so specify and clarify the issues, in addition to considering the aggregate reduction granted.
(How/Payne: 3-1; Chan dissenting)

B. 96 Crestline Dr.

H002-50A

The landlord appeals the denial of certain of the capital improvement costs disallowed based on his failure to submit verification of those costs within 10 days after the hearing as requested by the hearing officer. He instead submits documentation of the costs with his appeal.

MSC: To deny the appeal without prejudice to the landlord's filing another petition. (Payne/How: 4-0.)

C. 1329 Sacramento St. #5

H002-78R

One of the tenants appeals the hearing officer's decision granting the landlord's petition for a capital improvement increase of \$19.67. He specifically objects to the \$4.76 passthrough for a new kitchen faucet and a radiator valve.

MSW: To deny the appeal. (Payne/How)

MSC: To accept the appeal and remand the case to the same hearing officer for further hearing. (Payne/How: 4-0)

D. 300 Buchanan St.

H002-51A

The landlord appeals the hearing officer's decision on twelve consolidated tenant petitions. He objects to the 35% rent decrease granted for 7 months for lack of elevator service on the grounds that it is not related to the service, he was not permitted a reasonable time to make the elevator repairs, and the decrease should be valued on a floor-by-floor basis for this six-story building. He also objects to the 10% decrease granted for lack of pest control because he did not receive adequate notice of the problem from the tenants and the rent reduction was granted for more than one year.

MSW: To accept the appeal and schedule a Board hearing limited to the issues raised on appeal. (Payne/How)

MSC: To accept the appeal and remand the case to another hearing officer for consideration of the issues raised on appeal, in particular the amount of decrease for the lack of elevator service and the time allowed for repair. (Payne/How: 4-0)

E. 450 Alabama

H002-52A

The landlord appeals the hearing officer's decision on consolidated tenant petitions alleging illegal increases. The landlord contends that the building is not subject to the jurisdiction of the Board because the tenants rented the premises, which are not zoned for residential use, pursuant to a standard commercial lease. When the tenants negotiated a second lease in 1981, they agreed to illegal increases and the landlord expressly permitted their continued residential use of a third of the space. The landlord also argues that the Board does not have the authority to determine rent overcharges due to the increases.

MSC: To deny the appeal with respect to the issues of jurisdiction and to find that the units are subject to the jurisdiction of the Rent Board, but to accept the appeal and remand the case to the same hearing officer solely for possible corrections on rent overcharge calculations based on increases collected prior to April 1, 1982. (Payne/Chan: 4-0)

V. Appeal Hearings

A. 2090 Broadway

H001-19R, H001-23R through
H001-41R and H001-46R

Since the Board received withdrawals of theses appeals due to the parties' settlement of the matter, this hearing was taken off calendar.

B. 455 Eddy/350 Turk

H002-28A

The Board accepted the landlord's appeal on June 23, 1987 for a hearing limited to 10 minute arguments from each side. However, since the Notice of Hearing stated no limitation, the Board disregarded such time limits and additionally permitted testimony from the parties.

The hearing began at 6:50 p.m. At issue was whether the tenants' parking spaces are housing services subject to the jurisdiction of the Rent Ordinance. The parking is located in the basement of this building of 364 residential units, but the entire garage is leased by the owner to a master lessor. The hearing terminated at 8:10 p.m.

After concluding the next scheduled appeal hearing, the Commissioners discussed the case. They noted that tenant parking was offered as an inducement to rent and that monthly parking money paid by the tenants was a consideration, bonus or benefit received by the owner, as well as the master lessor.

MSC: To affirm the hearing officer's decision and find that the Rent Board has jurisdiction over the tenants' parking spaces and that the increase in the parking cost, to the extent it is in violation of the Rent Ordinance, is null and void. (Chan/How: 3-0)

C. 395 Capp St. #1, 4 & 10 H002-39A & H002-73R

The Board accepted the appeals of both the landlord and the tenant of unit 4 on June 23, 1987. (The landlord withdrew his appeal as to unit 5 because he and the tenant came to an agreement.) The landlord disputes the hearing officer's determination of rent overcharges and the tenant objects to the granting of capital improvement increases. After the hearing closed at 9:10 p.m., the Commissioners discussed the case and made the following determination:

MSC: To reduce, by approximately one-half, the capital improvement passthrough for individual unit items applicable to unit 4, and to recalculate rent overcharges based on actual amounts rather than on null and void increases. (Chan/Carrico: 3-0)

VI. Communications

A. 2121 Pierce St. H002-22A

The Commissioners received a request from the appellant to close the record on the appeal hearing held before the Board on June 16, 1987. They had kept the record open for a period of up to 2 months to arrange for the other owner to appear in support of his claim of owner-occupancy. The Board agreed to close the record and continue the matter until the next meeting when those Commissioners present at the June 16th hearing would be present to decide the appeal.

B. The Small Business Advisory Commission sent the Commissioners an invitation to a commercial leasing seminar scheduled on August 5, 1987.

VII. Old Business

A. 365 Guerrero St. H002-23A

The Board held its appeal hearing on June 16, 1983, but did not then have 3 votes to make a determination on the tenant's claim for a rent decrease due to loss of use of the roof deck. Commissioner Carrico listened to the tape recording of the hearing and at this meeting expressed his sense that the tenant's claim did not constitute a substantial decrease in the total package of housing services.

MSC: To vacate the hearing officer's decision and find that the loss of use of the roof deck is not a substantial reduction in housing services. (Carrico/Chan: 3-0)

B. 900 Chestnut H002-47R through H002-60R

The Board approved its written decision with corrections to pages 4 and 7 of the draft. The Board heard the appeal on May 12, 1987 and rendered its decision on June 9, 1987.

VII. Calendar Items

July 21, 1987

4 appeal considerations

1 appeal hearing: 1600 Filbert St. H002-40A (accepted 6/23/87)

Old Business: 2121 Pierce St. H002-22A (heard 6/16/87)

July 28, 1987

2 appeal considerations

1 appeal hearing: Stonestown H002-70R, etc. (accepted 6/23/87)

VIII. Adjournment

President Marshall adjourned the meeting at 10:07 p.m.

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7/21/87

= NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,

= July 21, 1987

State Building, 350 McAllister St. #1158

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals
 - A. 1701 Vallejo Street H002-54A
 - B. 1296-98 Haight Street H002-53A
 - C. 19-A Harriet Street H002-79R
 - D. 4606 18th Street H002-55A
- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions
- IX. Old Business
 - 2121 Pierce Street H002-22A (heard 6/16/87)
- X. New Business
- XI. Appeal Hearing
 - 6:00 1600 Filbert St. H002-40A accepted 6/23/87)
- XII. Calendar Items
- XIII. Adjournment

DOCUMENTS DEPT.

JUL 17 1987

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, July 21, 1987
at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Marshall called the meeting to order at 5:30 p.m.

II. Roll Call

Commissioners Present: Alviar; Armstrong; Carrico; Chan;
Curran; Marshall; Morales.
Commissioners not Present: How; Waller.
Staff Present: Hernandez; Wolf

Commissioner Payne appeared on the record at 5:45 p.m. Commissioner
Chan left at 6:22 p.m. and Commissioner Curran left at 7:55 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of July 14, 1987 as written
(Carrico/Alviar: 5-0).

DOCUMENTS DEPT.

IV. Consideration of Appeals

JUL 24 1987

A. 1701 Vallejo Street H002-54A

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The landlord appeals the hearing officer's remand decision denying the imposition of annual rent increases and granting rent reductions due to sporadic heat, an unreliable elevator, leaks, a faulty radiator, and a clogged sink. The landlord maintains that the awards are excessive and not substantiated by the evidence; that the hearing officer erred in disallowing rent increases that had already taken effect; and that an award was given for a period of time prior to the tenant's occupancy of the unit.

MSC: To accept the appeal and schedule a hearing before the
Board on the issues raised in the appeal (Payne/Alviar:
3-2; Marshall, Morales dissenting).

B. 1296-98 Haight Street H002-53A

The landlord appeals the hearing officer's decision granting rent increases due to capital improvements, but reducing the amount granted for increased operating expenses due to the landlord's failure to meet the burden of proof. The landlord maintains that the requisite insurance documentation is available and that management services he provided but did not bill for during the comparison year were performed for free.

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MSC: To accept the appeal and remand this case to the same hearing officer to review the insurance documentation and assign a management fee to the first year set at 6% of the gross rent for that year (Carrico/Payne: 5-0).

C. 19A Harriet Street

H002-79R

The tenant appeals the hearing officer's decision on remand granting substantial rent reductions due to severe habitability problems. The tenant alleges that the reduced award granted in the remand decision poses a financial hardship, as he relied on the sums granted in the original decision, and that he was not served with copies of the landlord's post-hearing submissions, as per the hearing officer's instructions.

MSC: To deny the appeal, but have staff issue a technical correction to the decision (Carrico/Alviar: 5-0).

D. 4606 18th Street

H002-55A

The landlord appeals the hearing officer's remand decision awarding a rent reduction due to lack of heat in the unit. The landlord maintains that the amount of the award is excessive under the circumstances in this case, as the tenant's failure to act promptly in effectuating the repairs prolonged the period of time she was without the service.

MSC: To deny the appeal (Morales/Marshall: 3-2; Carrico/Payne dissenting).

V. Appeal Hearing

1600 Filbert Street

H002-40A

The Board accepted the landlord's appeal on June 23, 1987. The hearing officer had granted the pass-through of extensive capital improvement work, but had halved the amount granted for certain items due to the landlord's deferred maintenance. The appeal hearing began at 6:26 p.m. Testimony centered on whether the landlord knew of the problems, and whether more regular upkeep and maintenance would have made some of the work unnecessary.

After the hearing concluded at 7:40 p.m., the Commissioners discussed the case and made the following motion:

MSC: To uphold the hearing officer's decision regarding the 50% reduction for dryrot repairs; to reduce the pass-through for weatherproofing and new windows by 15%; and to allow the full amount for new garage doors (Morales/Marshall: 3-2; Carrico, Payne dissenting).

VI. Communications

The Board approved the appeal decisions for the cases at 365 Guerrero Street and 197 Parker Street, heard on June 16 and June 30, 1987, respectively.

VII. Director's Report

The Executive Director reported on the following items:

A. A welcome was extended to new Commissioner James Morales.

B. The swearing-in of Commissioners Alviar, Payne and How will probably take place on the first Friday in August.

C. The Land Use Committee of the Board of Supervisors will consider amendments to the Rent Ordinance on Tuesday, July 28, 1987 at 9:00 a.m.

D. An amendment to the Rent Ordinance proposed by Supervisor Silver, disallowing tenants' renting to sub-tenants at higher rates than they pay the landlord, has passed a first vote by the Board of Supervisors.

E. The asbestos removal necessary in the building that houses the Rent Board offices is proceeding at a snail's pace.

VIII. Old Business

The Board discussed the case at 2121 Pierce Street (H002-22A), which was heard on June 16, 1987. At issue was the owner occupancy exemption to the Ordinance. The landlord failed to appear, as he is a merchant seaman and was at sea, and was represented by his sister. The record had been left open for a period of up to two months to arrange for the owner to appear in support of his claim. As the landlord had communicated that he would be unable to appear within the time period allowed, the Commissioners closed the record at their July 14, 1987 meeting.

After a brief discussion of the case, the Board made the following motions:

- MSF: To excuse Commissioners Carrico and Morales from consideration of this case (Alviar/Marshall: 2-1; Payne dissenting).
- MSF: To uphold the hearing officer's decision in this case (Alviar/Marshall: 2-1; Payne dissenting).
- MSC: To excuse Commissioners Carrico and Morales from consideration of this case (Alviar/Marshall: 3-0).
- MSC: To uphold the hearing officer's decision in this case (Alviar/Marshall: 3-0).

IX. New Business

The Commissioners discussed possible individual and collective responses to the Rent Ordinance amendments proposed by Supervisor Britt.

V. Calendar Items

July 28, 1987

3 appeal considerations

Eviction summaries and updates

1 appeal hearing: Stonestown - H002-70R, etc. (accepted 6/23/87)

August 4, 1987

4 appeal considerations

It was the consensus of the Board, at the suggestion of the Executive Director, that the September 8, 1987 Board meeting be cancelled due to the Labor Day holiday on September 7th and Admissions Day on September 9th.

XI. Adjournment

President Marshall adjourned the meeting at 8:40 p.m.

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1/28/87

NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,
July 28, 1987

State Building, 350 McAllister St. #1158

AGENDA

- I. Call to Order
- II. Roll Call
- III. Executive Session
- IV. Approval of the Minutes
- V. Consideration of Appeals

DOCUMENTS DEPT.

JUL 24 1987

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- A. 65 Cervantes Blvd. H002-56A
- B. 3984 25th Street I001-01A
- C. 405 Cole St., #A,B. I001-02A

- VI. Communications
- VII. Director's Report
- VIII. Remarks from the Public
- IX. Consideration of Allegations of Wrongful Evictions

- A. Hearings
 - 1. 245 Henry G150-28E
 - 2. Peters H006-59E
 - 3. 1347 - 48th Ave. H006-62E
 - 4. 542 London H005-52E
 - 5. 201 - 11th Ave. H006-28E

- X. Old Business

- XI. New Business

- XII. Appeal Hearing

- 6:00 A. Stonestown H002-70R accepted 6/23/87

- XIII. Calendar Items

- XIV. Adjournment

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7/28/87

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, July 28, 1987
at 5:30 p.m. at the State Building, 350 McAllister St. #1158

DOCUMENTS DEPT.

I. Call to Order

AUG 8 1987

President Marshall called the meeting to order at 5:34 p.m.

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II. Roll Call

Commissioners Present: Alviar; Armstrong; Marshall;
Morales; Payne.
Commissioners not Present: Chan; Curran; Waller."
Staff Present:
Hernandez; Wicks.

Commissioner Carrico appeared on the record at 5:57 p.m. and
Commissioner How appeared at 6:08 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of July 21, 1987, with the
following corrections:
p. 3, VIII. Old Business--Delete the first "MSF."
(Morales/Alviar: 4-0)

MSC: To approve the Minutes of the Special Meeting of July
28, 1987, with the following corrections and addition:
p. 1, II. Roll Call: Commissioners Not Present--add
"Waller";
p. 1, V. Call to Order: "Room 249 of City Hall";
p. 2, VI. Continued Discussion: "The Board was
informed that the Land Use Committee was continuing
their discussion for one month. Accordingly, the
Commissioners voted as follows: MSC: To table the
motion (Morales/Alviar: 4-1; Commissioner Carrico
dissenting).
(Alviar/Payne: 4-0)

IV. Consideration of Appeals

A. 65 Cervantes Blvd.

H002-56A

The landlord appealed the Hearing Officer's ruling that granted an
operating and maintenance increase based on increased debt service. On
appeal the landlord alleged an error in subtracting a utility increase,
since the owner had specifically not included it in the request.

MSC: To accept the appeal and remand the case to the Hearing
Officer for a possible technical correction on the
utility charge. (Morales/Payne: 4-0)

B. 3984-25th Street

I001-01A

The building at issue is a four-unit residential property for which a capital improvement petition was filed. On appeal the landlord noted that the cost of glass to a lobby door and the valuation of his own labor were not included.

MSC: To accept the appeal and remand the case to the Hearing Officer for possible technical corrections on the labor cost and expense for the window. (Payne/Alviar: 4-0)

C. 405A & 405B Cole

I001-02A

The Hearing Officer granted a 5% rent decrease for several delineated complaints judged to fall into a category involving loss of resident manager services, as well as a 3% decrease for termination of exterminator services. On appeal the landlord contended that the Hearing Officer was biased, gave excessive decreases, and absent sufficient evidence, found that the removal of a resident manager represented a decrease in services.

MSC: To deny the appeal, but clarify the order to instruct the owner to send a written 30-day notice to the tenants when service is restored. If the tenants do not agree it was restored, they may file again with the Rent Board. (Morales/Marshall: 3-1; Payne dissenting)

V. Communications

- A. Two tenants from 65 Cervantes wrote comments for the Commissioners. The Board asked Staff to follow up on both letters.
- B. The Board approved its written decision on 2121 Pierce.
- C. The Board received an article from the Recorder featuring a profile on Commissioner Jim Morales.
- D. The Commissioners received the Board's approved budget.

VI. Director's Report

- A. The Executive Director reported that staff member Dwayne Kunath would be leaving the Rent Board and relocating out-of-state. Mr. Kunath has been with the Rent Board since 1979, first as a Hearing Officer and for several years as the capital improvements specialist. In consideration of his leaving, the Board passed the following resolution:

MSC: The Board wishes to thank Dwayne Kunath for his many years of service to the Rent Board and to wish him well in his new pursuits. (Marshall/ Payne: 5-0)

- B. The Director informed the Board of the current state of asbestos contamination investigation in the building housing the Rent Board. There is a possibility that the office will be without heat for 1-2 years.

VII. Appeal Hearing

Stonestown Apartments

H002-70R, H002-80R through
H008-91R

The Commissioners accepted the tenants' appeal on June 23, 1987, limited to specific issues. At the appeal hearing the tenants argued: 1) the garbage costs were improperly calculated since the "increase" was actually a disputed amount owed in the base year, but only paid in the adjustment year; 2) vacancy decontrol provides a mechanism to reimburse for operating increases incurred in the previous tenancy, whereas the operating and maintenance formula was meant to afford a landlord means for assessing the costs of extraordinary expenses to long-term tenants; 3) since management is paid a percentage of gross rents billed, management costs are not based on actual expenses involved in administration and should be passed on to tenants only as they reflect such actual expenses; 4) use of the cash accounting system and calendar year period results in exaggerated increases, particularly since large insurance increases were prepaid.

In rebuttal the landlord argued that 1) the garbage charges reflect the time when paid, since there was a disagreement over the costs for the base year which was not settled until the adjustment year; 2) the letter of the law was followed in assessing increased operating charges, including to newer tenants; 3) Rent Board-related administration costs are charged separately on the basis of actual costs; 4) the cash method based on the calendar year has traditionally been used by the complex, and insurance must be prepaid.

After discussing the testimony and evidence, the Board voted as follows:

- MSC:
- a. garbage--that the costs be allocated to the years in which they would normally have been paid;
 - b. insurance--that the costs be allowed as petitioned for;
 - c. recipients of operating and maintenance charges--that only those tenants in residence during the base year be assessed this increase;
 - d. management fees--that the costs be allowed as petitioned for.

(Carrico/Alviar: 5-0)

VIII. Consideration of Allegations of Wrongful Evictions

Report From Staff

A. 4 Peters Avenue

H006-59E

Tenant: Silvio Lopez

Landlord: Pedro Duarte

The tenant resides in a single-family dwelling on the same parcel as a four-unit, owner-occupied structure. The owners erroneously believed that houses were not under the jurisdiction of the Ordinance. Immediately after complaining to BBI about disruptive construction in the building (cited for lack of permits), the tenants received 5-days 1232A

notice of an improper rent increase. Shortly after sending written request for repairs, the tenants received a 3-day notice for failure to pay the increase; even before the increase notice had even been served. Soon after, the tenants were served a 15-day notice to vacate for repairs. After hearing from the Rent Board, another three-day notice was served; the tenants were able to show timely receipts signed by the landlord for the period in question. An Unlawful Detainer action, with procedural defects, was filed.

Recommendation: To inquire into the status of a pending UD action and inform the landlord that the matter will be referred to the District Attorney if the court action is pursued.

B. 1347-48th Avenue

H006-62E

Tenant: Ruth Hamzavi

Landlord: Kenneth Larson

The tenant prevailed on improper rent increases for both his apartment and a storage area. A related eviction case revolved around a "final notice to comply or move by March 1, 1987" concerning late payment and possession of two dogs. Documents submitted to substantiate the position of the landlord, an attorney, showed all but one 3-day notice for nonpayment to be legally defective. The tenant alleged that they received oral permission for the dogs and walked the dogs to the landlord's office when paying monthly rent for three years.

Recommendation: To send a cautionary letter to the landlord reminding him to inform himself of and adhere to the provisions of both state and local law concerning evictions; monitor.

C. 542 London Street

H005-52E

Tenant: Michael Howley

Landlord: Jesus Corpus

The tenant and his family took up residence in this 2-unit building in 1981. The other unit was occupied by four of the landlord's children and, occasionally, by as many as two other relatives and/or friends. In January 1987 the tenants were given 60-days written notice to move. When asked the reason for termination, the tenants were told the property would be sold; requests to put this reason in writing were denied. The landlord's response to the Rent Board was unclear as to whether the property would be sold to his children or he was merely providing them with a larger area. After receiving Rent Board information that sale was not a reason for eviction, another notice was served for the occupancy of the landlord's children. It was explained that three children would reside in the tenants' 3-bedroom unit and the other child remain in the 2-bedroom unit. The Hearing Officer found some contradictions and unexplained discrepancies.

Recommendation: To monitor the case for a year to determine that the named children reside in the tenant's unit and the other child remains in the other unit.

D. 201-11th Avenue #1

H006-28E

Tenant: Andrew Salerno

Landlord: Fred Moncharsh

The property was purchased in January 1987. In early February all tenants received termination notices for substantial rehabilitation, with some wording in a cover letter to suggest that they might be able to reoccupy. Although the owner expected to expend large sums in renovation, there were only minor code violations found in a recent BBI inspection, the property was not unsafe or unhealthy, and no major structural work would be done. The property would therefore not qualify for substantial rehabilitation certification, and the eviction attempt had been pursued incorrectly.

Recommendation: To monitor the court case and consider taking further action if not so resolved; to investigate any other cases brought before the Board involving this owner.

E. 245 Henry

UPDATE G150-28E

The owner in this case was sent a stern cautionary letter by the Commissioners in March 1987. In May the tenant requested further assistance because of continuing harassment and retaliation. The Board agreed to monitor the case with a view to referring it to the District Attorney. The tenant prevailed in a June 1987 Rent Board hearing, proving that the owner had removed her back stairs and sealed her second, emergency exit for some time; BBI had cited the landlord several times previously for dangerous conditions and, eight months later, for failure to apply for permits and attempting construction without permits. Several City departments have cited the owner recently for the hazzardous conditions concerning tenant's unit.

Recommendation: For the Board to take whatever steps it feels necessary in referring this case to the District Attorney for unfair business practices.

MSC: To adopt Staff recommendations on cases 1-4; to set case 5 for a hearing for possible referral to the District Attorney.

(Payne/Alviar: 5-0)

IX. Old Business

- A. After discussion, the Commissioners decided to calendar their review of the proposed amendments before the Land Use Committee for August 11, 1987 during a regularly-scheduled meeting.

X. Calendar Items

August 4, 1987

4 appeal considerations

August 11, 1987

3 appeal considerations
1 eviction reconsideration
discussion of proposed Ordinance amendments

August 18, 1987

1 appeal consideration
1 eviction reconsideration
eviction hearing: 245 Henry [G150-28E]

XI. Adjournment

President Marshall adjourned the meeting at 8:04 p.m.



NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,
August 4, 1987

State Building, 350 McAllister St. #1158

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals

DOCUMENTS DEPT.

AUG 3 1987

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|--------------------------|----------------------------|
| A. 1446 Jones St. #6 | I001-02R |
| B. 342 - 24th Ave. units | I001-01R, I001-03R through |
| 101, 102, 104, 204, 303 | I001-06 |
| C. 485 Eddy St. #301 | I001-03A |
| D. 531 Noriega | I001-07R |

- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Old Business
- IX. New Business
- X. Calendar Items
- XI. Adjournment

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8/4/87

AUG 6 1987

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, August 4,
1987 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Marshall called the meeting to order at 5:32 p.m.

II. Roll Call

Commissioners Present: Alviar; Armstrong; Marshall.
Commissioners not Present: How; Payne; Waller.
Staff Present: Hernandez; O'Hearn.

Commissioner Gartzman appeared at 5:34 p.m. Commissioner Carrico
appeared at 5:35 p.m. Commissioner Morales appeared at 5:39 p.m.
Commissioner Curran appeared at 5:58 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of July 28, 1987 with
corrections to page 3, Item VII, as verified by staff,
to reflect that the landlord used the accrual method
for tax purposes and the cash method for Rent Board
purposes. (Alviar/Armstrong: 3-0)

IV. Consideration of Appeals

A. 1446 Jones St. #6 I001-02R

The tenant appeals the remand decision resulting from his appeal of the
original decision. The hearing officer granted a \$5.00 rent decrease
based on decreased heat due to the change in the heating system. The
tenant feels that the amount is inadequate. Commissioner Armstrong
noted possible errors in the decision concerning the rent increase
agreed upon by the parties in 1985 and the reference to the radiator as
evidenced by a May 1987 letter.

MSC: To deny the appeal, but direct staff to make technical
corrections, if necessary. (Alviar/Carrico: 5-0)

B. 342 24th Ave. I001-01R, I001-03R through
units 101, 102, 104, 303 I001-05R

Tenants of four units (unit 204 withdrew) appeal the hearing officer's
decision granting their landlord's petition for a capital improvement
passthrough of \$71.42 per unit per month. Although the hearing officer
found that the tenants regularly complained to the landlord between
1981 and 1985 about dampness, mold, mildew and dark wall stains, the
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work in 1986 necessitated by the roof leaks and dry rot was not the result of deferred maintenance by the current landlords who became owners on May 31, 1985. However, the former landlord continued to manage the property until just before the work commenced and the former owners transferred ownership to their daughter and son-in-law.

MSF: To deny the appeal. (Carrico/Alviar: 2-3; Armstrong, Morales and Marshall dissenting.)

MSC: To accept the appeal for hearing before the Board.
(Carrico/Alviar: 5-0)

C. 485 Eddy St. #301

I001-03R

The landlord appeals the hearing officer's decision granting a \$50/month rent decrease for twelve months before some repairs were made in April 1987. The decrease is based on elevator malfunctions, plumbing problems, ceiling leaks, and pest infestation. The landlord argues that the conditions described are not substantial in nature and that if the tenant's allegations are true, then the more appropriate remedy would be a defense to a rent increase. Commissioner Carrico noted in particular that the decision did not indicate the severity of the ceiling leaks.

MSF: To deny the appeal. (Morales/Marshall: 2-3; Alviar, Armstrong and Carrico dissenting.)

MSC: To accept the appeal and remand the case to a hearing officer with instructions to reconsider the case in view of the Board's concern that the tenant's allegations appear not to be a substantial decrease in housing services. (Carrico/Alviar: 3-2; Morales and Marshall dissenting.)

D. 531 Noriega

I001-07R

The tenant appeals the hearing officer's decision finding that the tenant agreed to a \$50 monthly increase for the addition of 2 adult sons to the residence. The hearing officer, however, prohibited the landlord's subsequent additional charges for the same family members. On appeal the tenant contends that the \$50 increase was understood and intended to be a only one-time payment to resolve the dispute.

MSF: To accept the appeal for hearing before the Board.
(Morales/Marshall: 2-3; Alviar, Carrico and Armstrong dissenting.)

MSC: To accept the appeal and remand the case to the hearing officer solely for correction of clerical and numerical errors. (Carrico/Alviar: 3-2; Morales and Marshall dissenting.)

V. Communications

A. The Board received a copy of an article in the Recorder (8/3/87) on evictions of South of Market artists.

B. The Executive Director also distributed a copy of the corrected proposed Rent Ordinance Amendments pending before the Board of Supervisor's Land Use Committee.

VI. Calendar Items

August 11, 1987

2 appeal considerations
1 eviction reconsideration & 1 eviction staff report
discussion of proposed Ordinance amendments

August 18, 1987

4 appeal consideration
appeal hearing: 342 24th Ave. (accepted 8/4/87)
1 eviction reconsideration
eviction hearing: 245 Henry [G150-28E]

VII. Director's Report

The Executive Director welcomed new Commissioner Sandra Gartzman, who was sworn in on July 31, 1987 and replaces Tenant Alternate Commissioner Douglas Chan.

The Director also informed the Board that an amendment to the Rent Ordinance introduced by Supervisor Silver passed second reading before the Board of Supervisors on August 3, 1987 and has been forwarded to the Mayor for her approval and signature. The amendment is to prohibit tenants who sublease their rental units from charging a higher rent upon the subtenants' initial occupancy than that rent currently being paid by the tenants to their landlords.

The Director updated the Commissioners on the status of the asbestos clean-up in the Rent Board office building.

VIII. Adjournment

President Marshall adjourned the meeting at 6:26 p.m.



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NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,

August 11, 1987

State Building, 350 McAllister St. #1158

AGENDA

I. Call to Order

DOCUMENTS DEPT.

II. Roll Call

AUG 6 1987

III. Approval of the Minutes

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IV. Consideration of Appeals

A. 3137-A Mission St.

I001-04A

B. 6 Santa Barbara

I001-10R

V. Communications

VI. Director's Report

VII. Remarks from the Public

VIII. Consideration of Allegations of Wrongful Evictions

A. Report from Staff

1. 2947 Folsom

G004-06E

2. 254-A Precita

H006-56E

B. Request for Reconsideration

388 5th St. #5

I001-09R

IX. Old Business

Discussion of proposed Amendments to the Rent Ordinance

X. New Business

XI. Calendar Items

XI. Adjournment

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8/11/87

MIN. 1011 BOSTON

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, August 11,
1987 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Marshall called the meeting to order at 5:32 p.m.

II. Roll Call

Commissioners Present: Alviar; Carrico; Gartzman;
Marshall; Morales.
Commissioners not Present: Armstrong; Curran; Waller.
Staff Present: Wicks; Wolf

Commissioner How appeared on the record at 5:36 p.m. Commissioner
Payne arrived at 5:50 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of August 4, 1987 as written
(Alviar/Morales: 4-0). DOCUMENTS DEPT.

IV. Consideration of Appeals

AUG 17 1987

A. 3137A Mission Street

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The landlord appeals the hearing officer's decision awarding repayment of overcharges due to an illegal rent increase and rent reductions due to decreased housing services. The landlord alleges that the original rental amount was not as determined by the hearing officer, but was a temporarily reduced amount due to a family relationship, and that all of the repairs have been made.

MSF: To accept this appeal and schedule a hearing before the
Board (Carrico/Alviar: 2-2; Marshall, Morales
dissenting).

MSF: To deny this appeal (Morales/Marshall: 2-2; Carrico,
Alviar dissenting).

As a fifth voting member was not present, this case was continued until later in the agenda. Upon the arrival of Commissioner Payne, the Board's discussion of this case resumed.

MSF: To remand this case to the same hearing officer on the
issue of the illegal rent increase (Morales/Marshall:
2-3; Alviar, Payne, Carrico dissenting).

MSC: To accept this appeal and schedule a hearing before the Board (Payne/Alviar: 3-2; Marshall, Morales dissenting).

B. 6 Santa Barbara

I001-10R

The tenant appeals the hearing officer's dismissal of her case due to her failure to appear, alleging that she never received notice of the hearing.

MSC: To remand this case for a new hearing (Carrico/Alviar: 4-0).

V. Communications

The Board received the following communications:

A. The Board's appeal decisions for the cases at 395 Capp Street (H002-39A and H002-73R), 244 Fair Oaks (H002-34A), and 1600 Filbert Street (H002-40A) were approved by the Board and signed by President Marshall. The decision for the case at 455 Eddy Street/ 350 Turk Street (H002-28A) will undergo further revision by staff.

B. The tenant's response to the landlord's appeal for the case at 3137A Mission Street.

C. A copy of the corrected amendments to the Rent Ordinance introduced by Supervisor Britt.

D. A copy of the amendment to the Ordinance introduced by Supervisor Silver, recently passed by the Board of Supervisors, which disallows a tenant collecting higher rent from sub-tenants than that paid to the landlord.

E. Rosters of Rent Board Commissioners and staff.

F. A draft letter from the Board to the Mayor regarding the asbestos removal problem at the Board's offices at 170 Fell, which will be revised by staff.

VI. Consideration of Allegations of Wrongful Evictions

A. Report from Staff

1. 2947 Folsom Street

G004-06E

The tenant has resided in her apartment for 15 years. She originally appeared before this Board in February of 1986, at which time a hearing officer found a failure to repair and attempted wrongful eviction by the landlord. In February of this year, the tenant received another Notice to Vacate for occupancy by one of the owners, the nephew of the landlord. At the hearing, the nephew's responses and credibility were found to be not credible by the hearing officer.

Recommendation: To schedule this case for a hearing before the Commissioners for possible referral to the District Attorney.

2. 254A Precita Avenue H006-56E

Three roommates have lived in this unit for 7-1/2 years, 4-1/2 years and 1 year, respectively. They have received a termination notice for occupancy by the eighteen year old sister of one of the owners. At the hearing, the owner's responses and assertions were found to be not credible by the hearing officer. The owners allege exemption by virtue of owner-occupancy, but did not raise this issue until after the Notice of Hearing was mailed.

Recommendation: To set this case for a hearing before the Commissioners for possible referral to the District Attorney.

MSC: To accept staff recommendations and schedule both of these cases for hearings before the Board (Payne/Alviar: 5-0).

B. Request for Reconsideration

388 5th Street #5 I001-09R

The hearing officer found that the landlord's attempted evictions in this building were wrongful, as the landlord had not obtained all of the necessary permits for the renovation work contemplated. The tenant appeals this determination, as he lost his case in Court, and feels that the Rent Board should stop the execution of the eviction by the Sheriff.

MSC: To deny the request for reconsideration (Carrico/Alviar: 5-0).

At 5:58 p.m., the Board adjourned to its offices at 170 Fell Street due to the fact that the power at the State Building was going to be turned off at 6:00 p.m.

VII. Old Business

The Board engaged in a lengthy discussion of the proposed Rent Ordinance amendments pending before the Board of Supervisor's Land Use Committee. At the conclusion of their discussion, the Board made the following motion:

MSC: To continue consideration of pending amendments to the Rent Ordinance until next week's meeting (Payne/Carrico: 3-2; Marshall, Morales dissenting).

VIII. Calendar Items

August 18, 1987

4 appeal considerations.

1 eviction reconsideration and staff report.

Eviction hearing: 245 Henry (G150-28E).

Discussion of proposed Ordinance amendments.

August 25, 1987

6 appeal considerations.

IX. Adjournment

President Marshall adjourned the meeting at 8:23 p.m.



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8/18/87

NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,
August 18, 1987

State Building, 350 McAllister St. #1158

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals
 - A. 40-42-1/2 Henry I001-05A
 - B. 364 6th Ave. I001-07A
 - C. 414 Madrid Street #4 I001-08A
 - D. 3632 17th St. #4 I001-06A
- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions
 - A. Report from Staff
 - 1. 3321 22nd St. H006-85E
 - 2. 3539 Clement #4 H007-24E
 - 3. 725 Ellis #609 H006-87E
 - B. Hearing
 - 6:30 p.m. 245 Henry G150-28E
- IX. Old Business
 - Proposed amendments
- X. New Business
- XI. Appeal Hearing
- XII. Calendar Items
- XIII. Adjournment

DOCUMENTS DEPT.

AUG 17 1987

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, August 18,
1987 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

37 I. Call to Order

President Marshall called the meeting to order at 5:39 PM.

II. Roll Call

Commissioners Present: Alviar, Gartzman, Marshall, Morales
Commissioners Not Present: Armstrong, Curran, Payne, Waller
Staff Present: Hernandez, Wicks

Commissioner Carrico appeared on the record at 5:41 PM; Commissioner
How appeared at 6:04 PM.

III. Approval of the Minutes

MSC: To adopt the Minutes of August 11, 1987 as written.
(Alviar/Morales: 3-0)

IV. Consideration of Appeals

A. 40-42 1/2 Henry I001-05A

This case was heard on remand after the Hearing Officer had denied a capital improvement increase; both the capital improvement and operating and maintenance issues were remanded by the Board. The second Hearing Officer allowed the operating and maintenance increase resulting from a recent transfer of the property. However, capital improvement costs--expenses apparently absorbed by the previous owner as terms of sale--were disallowed. The Hearing Officer reasoned that the tenants were paying for these costs already through the operating and maintenance increase, as the sales price and resulting debt service took these charges into account. On appeal the landlord stated that the improvements were not reflected in the purchase price.

MSC: To uphold the hearing officer and deny the appeal.
(Morales/Marshall: 4-0)

B. 364-6th Avenue I001-07A

The Hearing Officer granted a tenant petition disallowing a rent increase because of the landlord's failure to maintain and repair the property. The tenant had previously won on a decrease in services argument in 1986. In support of the subject petition, the tenant provided a BBI citation from March 1987. The Hearing Officer further upheld the previous rent reduction since the services had

not been restored. On appeal the landlord protested, among other things, that he had spent \$6,500 in February 1987 to bring the building up to code and that BBI had signed off on the removal of all code violations.

MSF: To accept the appeal for a hearing at the Board level
(Carrico/Alviar: 2-2; Morales and Marshall dissenting).

MSC: To Remand to the hearing officer for clarification of the failure to maintain issue and to determine whether decrease in service items from the prior hearing have been restored
(Morales/Carrico: 3-1; Alviar dissenting).

C. 414 Madrid St. #4 I001-08A

In January 1987 the tenant was given a one-week, oral rent increase from \$200 to \$250. In May 1987 the owner gave one week's notice of an increase to \$350. The tenant continued to pay the \$250 and filed with the Board. Both rent increases were voided by the Hearing Officer. The landlord had requested a postponement of the hearing, stating he would be out of the area. However, the tenant did not receive postponement information from the landlord and came to the hearing. Upon a call by the Executive Director to the landlord, it was learned that the landlord was at home. The hearing therefore went forward. On appeal the landlord insisted that the decision against him in absentia was incorrect; that the initial rental amount was \$250, which he documented by a copy of the original rental agreement.

MSC: To remand the case for a new hearing to determine the correct rent and any applicable refunds.
(Carrico/Alviar: 4-0)

D. 3632-17th St. #4 I001-06A

The subject property consists of three flats. The top floor contains four separate rooms which the tenants testified are rented separately, thus resulting in a seven-unit building. During the period at issue the landlord lived in the unit under the subject tenants. The Hearing Officer voided two rent increases above the allowed limits. On appeal the landlord argues that the building was exempt from the Ordinance because of owner-occupancy, and that the tenant was "not a proper tenant" from her alleged move-in to live with her husband, a prior tenant, in 1984. The owner maintained that if the tenant did indeed live there, her tenancy was in secret.

MSC: To uphold the hearing officer and deny the appeal.
(Morales/Alviar: 4-0)

V. Director's Report

Executive Director Ricardo Hernandez discussed the proposed Walker amendment to the Planning Code concerning landlords' responsibilities to tenants evicted from "illegal" units.

VI. Considerations of Allegations of Wrongful Evictions

Staff Report

A. 3321-22nd St. H006-85E

Tenant: Ellen Lyons, et al Landlord: Estelita Lipat

Four tenants built a rudimentary living space in a warehouse zoned only for residential use. Unaware of the zoning restrictions, the current landlord recently purchased the property for commercial purposes. The tenants refused to move, and settlement efforts fell through. The tenants' continuing attempts to pay rent were refused, although three-day notices for nonpayment were also given. Although the landlord left the country for 9 months, an Unlawful Detainer was filed. The tenants won in court; a month after judgment was entered, the landlord attempted to evict for owner-occupancy. She had not seen the property since purchase, the living space contained numerous cited code violations, and no estimates for repair or conversion of the warehouse had been solicited. The Hearing Officer found it unlikely that the landlord would convert a bare warehouse into her home. The timing of the eviction attempt suggests retaliation for the tenants' successful court defense.

RECOMMENDATION: To monitor the current UD; if the tenants prevail, the matter should be watched for future eviction attempts.

B. 2539 Clement St. H007-24E

Tenants: Hoa & Gary Cornell Landlord: Choon Huey

During the four-year tenancy, the tenants had repeatedly asked that repair and maintenance problems be remedied. The landlord either ignored the requests or made inadequate and even dangerous "repairs." After recent complaints about conditions, a 16% increase was noticed. A 3-day notice for failure to pay rent was given; the tenants were able to prove the landlord had deposited the check when the notice was prepared. Another notice was served for running an illegal daycare center from the apartment. A complaint by the landlord was filed with the licensing agency, alleging a number of hazardous conditions. An unannounced agency inspection found no violations of any sort; care of a friend's 2 children also did not constitute running a daycare center. The Hearing Officer granted a petition for failure to repair, voided the rent increase, and found clear evidence of wrongful, retaliatory evictions. All notices were rescinded during the hearing.

RECOMMENDATION: To monitor and send landlord a cautionary letter.

C. 725 Ellis #609 H006-87E

Tenant: Jorge Chavez Landlord: Velvin Dagovitz

The tenant and his family moved into a studio in a 51-unit building, with an existing hotplate and refrigerator constituting the 1246A

kitchen. The previous owner told the tenants that use of these appliances was permissible and common practice. Later BBI inspected the property as part of its sale; use of the appliances was not cited. Nevertheless, the new owner referred to a BBI report in telling all studio tenants to discontinue use of the appliances. The subject tenant received a 30-day notice of termination for nuisance, i.e., use of the appliances. The notice did not specifically state the nature of the nuisance, and no hazard was ever stated or proved.

RECOMMENDATION: Monitor to make sure proper legal procedures are followed.

MSC: To accept Staff recommendations; additionally to write a letter to the landlord at 725 Ellis, cautioning him to follow correct legal procedure.
(Alviar/Morales: 4-0)

Hearing: 245 Henry G150-28E

MSC: To postpone the hearing to a later date.
(Alviar/Morales: 4-0)

VII. Calendar Items

August 25, 1987

6 appeal considerations

Eviction Reconsideration: 254 Dolores #2 [I001-11R]

Old Business: Proposed Amendments

September 1, 1987

4 considerations

2 appeal hearings:

6:00 PM 342-24th Ave. #101, 102, 104, 303
[accepted 8-4-87 I001-01,03,05(R)]

6:30 PM 3137-A Mission
[accepted 8-11-87 I001-04A]IX.

VIII. Old Business

The Commissioners went off the record at 6:43PM and came back on the record at 7:01 PM

MSC: To continue Old Business to the August 25, 1987 meeting; the Commissioners agreed to not request that the Board of Supervisors delay the matter until the Commissioners have offered their recommendations on the proposed amendments.
(Morales/Alviar: 4-0)

IX. Adjournment

President Marshall adjourned the meeting at 7:13 PM.
1246A

NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,

AUGUST 25, 1987

State Building, 350 McAllister St. #1158

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals
 - A. 3112 San Bruno Ave. I001-08R
 - B. 2135 California #4 I001-09R
 - C. 22 Terra Vista I001-10A
 - D. 543 Natoma #3 I001-11A
 - E. 523 Chestnut #C I001-12A
 - F. 172 Haight #2 I001-13A
- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions
 - Request for Reconsideration
 - 254 Dolores #2 I001-11R
- IX. Old Business
 - Proposed Amendments to the Rent Ordinance
- X. New Business
- XI. Calendar Items
- XII. Adjournment

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, August 25, 1987
at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Marshall called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present: Armstrong; Carrico; Gartzman;
Marshall; Payne.
Commissioners not Present: Alviar; How; Morales; Waller.
Staff Present: O'Hearn.

Commissioner Curran appeared on the record at 5:47 p.m.

III. Approval of the Minutes

MSC: To approve the minutes of August 18, 1987 as written.
(Carrico/Gartzman: 4-0)

IV. Consideration of Appeals

A. 3112 San Bruno Ave. I001-08R

The tenant appeals the hearing officer's decision denying his petition for rent reduction due to alleged decreased housing services. The hearing officer found that the tenant had failed to meet his burden of proof. On appeal the tenant maintains that a report from the Bureau of Building Inspection had not been available to his representative at the time of the hearing.

MSC: To deny the appeal. (Carrico/Payne: 4-0)

B. 2135 California St. I001-09A

The landlord appeals the hearing officer's decision determining rent overcharges due to several years of null and void rent increases. The landlord asserts that the relationship between the parties in this case is that of employer-employee, and not landlord-tenant. He therefore contends that no rent increase had taken place, but rather a reduction of the tenant's management services with a corresponding reduction in the credit against the rent.

MSC: To accept the appeal for Board hearing.
(Carrico/Gartzman: 4-0)

1249A

C. 22 Terra Vista Avenue

I001-10A

The landlord appeals the hearing officer's decision denying the full amount of the costs of capital improvements made to the subject property. The landlord maintains that it is not their burden to prove that consideration for necessary termite and dryrot work was not received from the previous owner at time of sale and that the cost of new windows should be allowed even though they replaced existing windows which were broken.

MSF: To accept the appeal and remand the case to another hearing officer for further hearing on the issues of termite and dry rot work with instructions to consider whether the work was performed during relevant periods, i.e. after June 13, 1979. (Payne/Carrico: 2-3; Curran, Gartzman and Marshall dissenting.)

MSC: To deny the appeal. (Curran/Gartzman: 3-2; Carrico and Payne dissenting.)

D. 543 Natoma #3

I001-11A

The landlord appeals the decision of the hearing officer declaring a proposed 28% rent increase null and void. At issue is the actual amount of rent the tenant had been paying, as cash had been preferred and only one rent receipt had been provided. The landlord alleges fraud on the tenant's part, but has no documentary evidence to support his assertions. Commissioner Gartzman noted that the hearing officer is in the best position to determine credibility.

MSC: To deny the appeal. (Gartzman/Marshall: 5-0)

E. 523 Chestnut Street.#C

I001-12A

The landlord appeals the hearing officer's decision determining null and void rent increases. The landlord alleges that the decision contains factual inaccuracies, requests clarification regarding the amount of illegal increases, and asserts that the language of Section 4.10(b) is sufficiently ambiguous so as to allow for reimbursement of only the amount above the allowable increase to be refunded, rather than the null and void increase in its entirety.

MSC: To accept the appeal for Board hearing.
(Payne/Carrico: 3-2; Gartzman and Marshall dissenting.)

F. 172 Haight St. #2

I001-13A

The landlord appeals the hearing officer's decision determining past overcharges. The rent history of the tenants in this case is complicated by the rental of a garage, a capital improvement passthrough which was improperly added to the base rent, a \$75.00 charge for an additional occupant, and banked rent increases. On appeal, the landlord admits that mistakes were made, but asserts that the hearing officer was unfair in not looking at "the whole rental picture."

MSC: To deny the appeal. (Gartzman/Carrico: 4-1; Payne dissenting.)

V. Communications

The Commissioners received a statistical summary for July 1987 showing the numbers of petitions filed, hearings held, and eviction notices received.

VI. Director's Report

The Deputy Director reported on the recent completion of the administrative record requested by Samuel Ware on behalf of Parkmerced Company concerning the appeal denied on April 28, 1987 and the pending preparation of the record requested by Nancy Lenvin on behalf of Chestnut Place concerning the appeal decision rendered on June 9, 1987.

VII. Consideration of Allegations of Wrongful Evictions

Request for Reconsideration
254 Dolores St. #2 I001-11R

The landlord requests reconsideration of the hearing officer's recommendation that the Commissioners immediately review and monitor the matter for referral to the City Attorney and/or District Attorney in the event the landlord pursues the eviction for owner occupancy. The hearing officer also recommended that the eviction is in bad faith and that since the property is owned by a partnership, the landlord seeking recovery is not an owner for purposes of an owner-occupancy eviction. Based on further investigation of three eviction attempts at this property and links to other properties, staff recommended referral directly to the District Attorney.

MSC: To schedule a hearing before the Board.
(Payne/Carrico: 5-0)

VIII. Old Business

Proposed Amendments to the Rent Ordinance

The Land Use Committee referred the proposed Rent Ordinance amendments to the full Board of Supervisors for the meeting on September 21, 1987. Commissioner Alviar, who was present at the Board of Supervisor's Land Use Committee hearing the morning of August 25, 1987, but was unable to be present at the Rent Board meeting, requested that the Commissioners postpone their continued discussion of the amendments until the next Board meeting so that she could participate.

MSC: To postpone further discussion until the next Board meeting. (Gartzman/Payne: 5-0)

Commissioner Payne, who also was present at the Committee hearing, relayed Supervisor Ward's request for input from the Rent Board.

IX. New Business

A. The Commissioners requested staff to draft a letter from the President to the Presiding Justices of the Municipal and Superior Courts informing them of the Rent Ordinance and Board Regulations, especially with respect to evictions.

B. Commissioner Gartzman requested staff to determine whether the eviction notices which are the subject of wrongful eviction complaints filed with the Board have been separately filed with the Board pursuant to Ordinance Section 37.9(c).

X. Calendar Items

September 1, 1987

5 appeal considerations

2 appeal hearings:

6:00 342-24th Ave. #101, 102, 104, 303

(Appeal Nos. I001-01R, I001-03R through I001-05R accepted 8-4-87)

6:30 3137-A Mission (Appeal No. I001-04A accepted 8-11-87)

September 8, 1987 - No Board meeting following Labor Day

September 15, 1987

4 appeal considerations

2 eviction hearings:

6:00 2947 Folsom (G004-06E accepted 8/11/87)

6:30 254-A Precita (H006-56E accepted 8/11/87)

XI. Adjournment

President Marshall adjourned the meeting at 6:50 p.m.

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NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, September 1, 1987

State Building, 350 McAllister St. #1158

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals

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- | | | |
|----|---------------------|---------------------|
| A. | 835 & 837 36th Ave. | I001-14A |
| B. | 642 Jones St. #604 | I001-13R |
| C. | 16 Hill St. #2 | I001-12R |
| D. | 782 & 784 30th Ave. | I001-14R & I001-15R |
| E. | 765 Sutter St. | I001-15A |

- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions
- IX. Old Business
- X. New Business
- XI. Appeal Hearings

- | | | | |
|------|----|--------------------------------------|--|
| 6:00 | A. | 342-24th Ave.
#101, 102, 104, 303 | I001-01R, I001-03R through
I001-05R (accepted 8-4-87) |
| 6:30 | B. | 3137-A Mission | I001-04A (accepted 8-11-87) |

- XII. Calendar Items
- XIII. Adjournment

1250A

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2 9/1/87

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, September 1,
1987 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

DOCUMENTS DEPT.

I. Call to Order

SEP 8 1987

President Marshall called the meeting to order at 5:36 p.m.

SAN FRANCISCO
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Commissioners Present: Alviar; Carrico; Gartzman;
Marshall; Morales; Waller.
Commissioners not Present: Armstrong; How.
Staff Present: O'Hearn; Wolf.

Commissioner Curran appeared on the record at 5:37 p.m. and
Commissioner Payne appeared at 5:38 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of August 25, 1987 as written.
(Alviar/Carrico: 4-0)

IV. Consideration of Appeals

A. 835 & 837 36th Avenue I001-14A

The landlord appeals the hearing officer's denial of his petition for
certification of "voluntary" rent increases in excess of the legal
limitations allegedly agreed to by the tenants. The landlord's
attorney maintains that the section of the Ordinance disallowing
waivers of tenant's rights does not apply to "voluntary" increases.

MSF: To accept this appeal and schedule a hearing before the
Board. (Carrico/Payne: 2-3; Alviar, Marshall, Morales
dissenting).

MSC: To deny this appeal. (Alviar/Morales: 3-2; Carrico,
Payne dissenting).

B. 642 Jones Street #604

One tenant appeals the decision of the hearing officer which grants
corresponding rent reductions for decreased housing services. The
basis for the appeal is that the base rent figure for this tenant that
was used by the hearing officer is incorrect.

MSC: To accept the appeal and remand this case to the same
hearing officer to determine whether a technical
correction is needed. (Payne/Alviar: 5-0)

C. 16 Hill Street #2

I001-12R

The tenant appeals the hearing officer's decision deferring the annual increase due to the landlord's failure to make requested repairs, but denying a rent reduction for decreased services. The tenant's appeal maintains that the repair problems are of sufficient severity to warrant a rent reduction.

MSC: To deny this appeal. (Carrico/Alviar: 5-0)

D. 782 & 784 30th Avenue

I001-14R & I001-15R

Tenants in two units appeal the hearing officer's decision granting the landlord's application for certification of capital improvements. The tenants in one unit allege that the roof work was necessitated by the landlord's deferred maintenance and that the landlord misrepresented the heating costs in order to convince them to rent the unit. The tenant in the other unit maintains that the change from a gas to an electric heating system was not necessary for reasons of health or safety. The tenants in both units feel that the new heating system is not an "improvement", as it is more costly and they do not believe that it is as efficient.

As the Commissioners had not received a copy of the decision in this case, it was the consensus of the Board to postpone consideration of this appeal until the next Board meeting.

E. 765 Sutter Street

I001-15A

The landlord in this case petitioned for certification of capital improvements, which were granted. An additional increase based on operating expenses was stayed until three conditions relating to maintenance of the building are met. On appeal, the landlord maintains that one of the conditions required in the hearing officer's decision is unnecessary and impossible to meet.

MSC: To accept the appeal and remand this case to the same hearing officer on the issue raised in the landlord's appeal. (Carrico/Alviar: 4-1; Marshall dissenting.)

V. Communications

The Board received the following communications:

A. A postponement request for the appeal hearing at 342 24th Avenue, originally scheduled for tonight's meeting, and granted administratively by staff.

B. A letter from Supervisor Nancy Walker expressing concern regarding a recent Board decision in a case concerning null and void rent increases.

C. Draft letters to Presiding Judges Claude Perasso and Mary Morgan regarding the importance of enforcement of the eviction protections contained in the Rent Ordinance.

D. The hearing officer's decision in the case at 782 and 784 30th Avenue, which will be considered at the September 15, 1987 Board meeting.

VI. Director's Report

Deputy Director O'Hearn reported that she spoke to the Unreinforced Masonry Building (UMB) Community Advisory Committee meeting on August 31, 1987 regarding the possible effects of seismic safety work with regard to capital improvement increases and evictions.

VII. Appeal Hearing

3137A Mission Street

I001-04A

The Board accepted the landlord's appeal on August 11, 1987. The landlord appealed the hearing officer's decision determining rent overcharges due to an illegal rent increase and rent reductions due to decreased housing services. In his appeal, the landlord alleged that the original rental amount was not as determined by the hearing officer, but was a temporarily reduced amount due to a family relationship, and that all of the repairs had been made.

The appeal hearing began at 6:50 p.m. Testimony centered on the amount of initial rent, the rent payment history, and existing conditions in the unit. After the hearing concluded at 7:35 p.m., the Commissioners discussed the case and made the following motion:

MSC: To set the base rent at \$420.00; to establish a rent increase anniversary date of November; to discontinue the 5% rent reduction for lack of security as of September 1, 1987; and to continue the rent reductions for the other items in the hearing officer's decision until the conditions are remedied and 30-day notice of rent increase is issued. (Carrico/Alviar: 5-0).

VIII. Old Business

The Board members continued their discussion of the proposed Rent Ordinance amendments scheduled to go before the Board of Supervisors on September 21, 1987. The following motion was made and passed:

MSC: That the Rent Board takes no position regarding the currently pending legislation to amend the Rent Ordinance. However, since the Rent Board's input has been requested and there is strong dissension among the Commissioners as to the effect the pending amendments would have on the general welfare of San Francisco's landlords and tenants, the Commissioners as Commissioners may submit their oral and written comments to the Board of Supervisors. The Board also encourages the Supervisors to carefully consider the effects of the proposed changes. (Alviar/Morales: 4-1; Payne dissenting.)

IX. New Business

Commissioner Carrico reported that Supervisor Silver may be interested in carrying some amendments to the Rent Ordinance in the areas of null and void rent increases, principal place of residence as it relates to the owner-occupancy exemption and various approaches to eviction problems.

X. Calendar Items

September 8, 1987 - no Board meeting following Labor Day.

September 15, 1987

5 appeal considerations (including 1 continued from 9/1/87).

3 eviction case summaries.

Eviction hearing:

6:30 254A Precita Street H006-56E

September 22, 1987

4 appeal considerations

3 appeal hearings:

6:00 1701 Vallejo H002-54A, accepted 7/21/87

6:30 2135 California St. I001-09A, accepted 8/25/87

7:00 523 Chestnut #C I001-12A, accepted 8/25/87

XI. Adjournment

President Marshall adjourned the meeting at 7:55 p.m.



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#1
9/15/87

NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,
September 15, 1987

State Building, 350 McAllister St. #1158

AGENDA

DOCUMENTS DEPT.

SEP 8 1987

SAN FRANCISCO
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- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals
 - A. 782 & 784 30th Ave. I001-14R & I001-15R
(Cont. from 9/1/87)
 - B. 1480 Waller St. I001-16A
 - C. 350 Turk/455 Eddy I001-17A & I001-18A,
I001-16R through I001-25R
 - D. 706 Polk St. I001-19A
 - E. 635 Lyon St. I001-20A
- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions
 - A. Report from Staff
 - 1. 1756 Washington H006-67E & H006-95E
 - 2. 185 Kensington Way H007-82E
 - 3. 2030 Franklin #504 H006-30E
 - B. Hearing
 - 6:30 254-A Precita H006-56E (accepted 8/11/87)
- IX. Old Business
- X. New Business
- XI. Calendar Items
- XII. Adjournment
1257A

Arbitration Board



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, September 15,
1987 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

DOCUMENTS DEPT.

I. Call to Order

President Marshall called the meeting to order at 5:38 p.m.

SEP 18 1987

SAN FRANCISCO
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Commissioners Present: Carrico; Curran; Gartzman;
Marshall; Morales; Waller.
Commissioners not Present: Alviar; Armstrong; How.
Staff Present: Hernandez; Wicks.

Commissioner Payne appeared on the record at 5:43 p.m.

III. Executive Session

The Board went into Executive Session at 5:42 p.m., pursuant to Government Code Section 54956.9(a), to discuss the matter of Parkmerced Residents Organization v. S.F. Rent Board, Superior Court No. 864-160. After passing the following motion, the Executive Session was closed at 5:49 p.m.:

MSC: To set aside the Amended Rent Board Decision on Appeal dated November 6, 1985, which allowed an exception to Rules and Regulations Section 4.11 and permitted the landlord for Parkmerced to use the June 1979 through May 1980 comparison period for utility passthroughs (rather than the calendar year 1980), and set the matter for further hearing before the Board.
(Morales/Payne: 5-0)

IV. Approval of the Minutes

MSC: To approve the Minutes of September 1, 1987 as written.
(Carrico/Morales: 5-0)

V. Consideration of Appeals

A. 782 & 784-30th Ave. I001-14R & I001-15R

Tenants in two units appeal the hearing officer's decision granting the landlord's application for certification of capital improvements. The tenants in one unit allege that the roof work was necessitated by the landlord's deferred maintenance and that the landlord misrepresented the heating costs in order to convince them to rent the unit. The tenant in the other unit maintains that the change from gas to an

electric heating system was not necessary for reasons of health or safety. The tenants in both units feel that the new heating system is more costly and not as efficient.

MSC: To deny the appeal, but advise the tenants that they may have grounds for a decrease in service petition on loss of use of the premises because of leaks and increased utilities costs. (Carrico/Payne: 5-0)

B. 1480 Waller Street I001-16A

The landlord appealed the hearing officer's granting of rent reductions to correspond with decreases in service concerning loss of resident manager, decrease in cleaning, leaks, and lack of lighting and doorbell--for a total of 18%. On appeal the landlord argued that the hearing officer was biased toward the tenants; erroneously assumed a resident manager was superior to a full-time, off-site manager; and, without sufficient evidence, ruled the tenants had met their burden of proof.

MSC: To accept the appeal and remand the case to the hearing officer for clarification on the specific reductions granted for decrease in services and to address the landlord's issues on appeal concerning the discrepancy in awards. (Curran/Morales: 3-2; Carrico and Payne dissenting)

C. 350-Turk/455 Eddy I001-17A & I001-18A, I001-16R through I001-25R

Both the landlord and various tenants appealed the ruling of the hearing officer on a landlord's petition for operating and maintenance increase, and the tenants' arguments on failure to maintain and repair and decrease in services. The landlord's petition was granted subject to curing all maintenance problems, and certain individual tenants were granted rent reductions to correspond with a decrease in services. Among various issues in the tenants' appeals were inadequate compensation, failure to address certain tenant complaints, and the inequity of allowing the landlord an operating and maintenance increase. The landlord protested that the tenants had not carried their burden of proof of decreases in services or failure to repair, and that the landlord had no notice the tenants would raise a failure to repair defense.

MSF: To accept both the landlord and tenant appeals for a hearing before the Board only on the decrease in service and failure to repair issues presented below. (Carrico/Payne: 2-3; Curran, Marshall and Morales dissenting)

MSF: To accept both the landlord and tenant appeals and remand the case for clarification of whether all elements of the decrease in service and failure to repair arguments have been met. (Morales/Marshall: 2-3; Carrico, Curran, and Payne dissenting)

MSC: To accept both the landlord and tenant appeals and remand the case for a new hearing to a different hearing officer on the issues of decrease in services and failure to maintain. (Payne/Carrico: 3-2; Marshall and Morales dissenting)

D. 706 Polk St. I001-19A

The landlord appeals the decision of the hearing officer granting decrease in service reductions at this 64-unit building. Forty-seven units remained occupied after a fire in 1986. The tenants complained--among other things--that during a recent 10-month period services seriously deteriorated, including: only one working shower in the building; few working toilets; inadequate garbage and janitorial service; and lack of security, resulting in transient traffic. On appeal the landlord maintained that services had been adequate and that the tenants had interfered with janitorial and garbage services.

MSC: To uphold the hearing officer and deny the appeal. (Curran/Morales: 5-0)

E. 635 Lyon Street I001-20A

The hearing officer's ruling that a tenant had proved decrease in service and failure to repair issues was appealed by the landlord. The tenant maintained that she had not received a rent increase since the inception of her tenancy in 1980, but that previous landlords honored a rent reduction because of serious habitability problems. The present landlord, who took over ownership in 1986, attempted to bank a 30% increase on a base rent that included the amount formerly subtracted for habitability. The hearing officer ruled that necessary repairs were not effected until a February 1987 BBI citation was abated the following April, and the banking increase requested is therefore denied; the tenant's base rent shall no longer include the habitability reduction since repairs have been made; and the anniversary date must remain November, the month the tenancy began, since no valid increases have been given. On appeal the landlord argued that the work had been performed by previous owners, that repairs were often delayed because of the tenant's interference, and that any increase subsequent to the move-in date may be used to set a new anniversary date.

MSF: To affirm the hearing officer's decision and deny the appeal. (Morales/Marshall: 2-3; Carrico, Curran and Payne dissenting.)

MSC: To accept the appeal and remand the case to the hearing officer with instructions to review the anniversary date issue and to allow banking upon proper notice. (Payne/Carrico: 5-0)

VI. Considerations of Allegations of Wrongful Evictions

A. Report from Staff

1. 2030 Franklin #504 H006-30E

Since the inception of the tenancy in 1982, the subject tenant had a number of replacement roommates with the knowledge and approval of previous owners, including an express waiver of the requirement of prior permission noted in the rental agreement. In 1984 the property was sold to the current owner, who was aware of changes in roommates and made no complaint. In early 1987 another replacement tenant prepared to move in. The new resident manager mentioned the need for prior permission but stated the tenant could move in after completing a credit application. The owner met with the tenant and granted approval for her tenancy. Later the landlord called the established tenant and gave oral notice of a \$200 rent increase for the new tenant. Although agreeing to pay under protest, the subject tenant said she would petition the Rent Board on this issue. Several days later the landlord's counsel returned the rent and informed the tenants that a 3-day notice for breach would be filed; a UD was served soon after.

Recommendation: Both by express and implied waiver, this owner and her predecessors allowed roommate changes without prior permission. Revocation of express premission for the new tenant occurred only after the tenant indicated an intent to file with the Rent Board. The court action should be monitored; if the UD is pursued, the Board should consider further action.

2. 185 Kensington Way H007-82E

The tenant lives in a 3-unit building belonging to an owner residing in a foreign country; one of his sisters--not an owner--lives in the building. On the mistaken belief that the property was owner-occupied exempt, a 13% rent increase was served. The tenant informed the sister that a 4% increase was the maximum allowed and that she would file with the Rent Board. Shortly after she received a termination notice for remodelling. The notice was defective and none of the terms of Ord. 37.9(a)(11) were complied with. The tenant also filed for wrongful eviction. Several days after receipt of the eviction investigation papers, another sister of the owner uprooted a garden across the street planted and tended by the tenant. At the hearing the sisters testified that the building would be remodelled and sold although they had not applied for permits, contractor bids had not been solicited, no evidence of attempts to sell could be provided, and the resident sister and other tenant were not subject to removal.

Recommendation: The agents' lack of understanding of or willingness to inform themselves of the law and apparent retaliatory actions are cause for great concern. The Board should monitor the case and send a stern, cautionary letter to the owner and/or agents.

3. 1756 Washington St. H006-67E & H006-95E

The tenants in question have individual rooms with community bath and kitchen facilities in a five-unit "boarding house" flat. The building contains three flats, one occupied by the owner. The
1261A

hearing officer ruled that despite this structural arrangement, the property was under the jurisdiction of the Ordinance because there were a total of eight residential units. The owner testified that she had called BBI to ask about the legality of the boarding house arrangement and was told it was probably nonconforming. Accordingly she attempted to get those involved tenants to move, apparently through methods of verbal harassment, changing locks, shutting off electricity, etc. No BBI inspection or citation had occurred, no plans for construction had been solicited, no permits had been applied for.

Recommendation: To write the landlord a cautionary letter advising her to proceed with the evictions in accordance with the law and to warn her of possible liability for harassment.

MSC: To accept all Staff recommendations.
(Payne/Marshall: 5-0)

B. Eviction Hearing Before the Commissioners

254-A Precita

H006-56E (accepted 8/11/87)

By Board consensus it was agreed to calendar this hearing for a later date.

VII. Communications

- A. The Stonestown Board Decision on Appeal [H002-70R] was reviewed and signed.
- B. The Commissioners received a memo from the Deputy Director concerning Senate Bill 692, limiting commercial rent control on a state-wide basis.
- C. Rent Unit Supervisor Delene Wolf submitted a list of considerations of questions arising from the newly-approved "Silver Amendment," Ordinance Sec. 37.3(A)(c). The Board wishes to discuss this topic under next week's Old Business.
- D. Several tenants from 782-30th Avenue wrote the Commissioners.
- E. A letter from Don Hesse--Fair Housing Coordinator of the Human Rights Commission--was distributed, outlining his concerns about the potential discriminatory aspects of passing on rent increases only to certain tenants.

VIII. Director's Report

- A. Executive Director Ricardo Hernandez informed the Board that Eviction Unit Supervisor Alicia Wicks had recently spoken on two occasions to groups of seniors in Chinatown on the issue of temporary relocation for renovation.

IX. Calendar Items

September 22, 1987

4 appeal considerations

Appeal Hearings:

6:00--	1701 Vallejo	H002-54A	(accepted 7/21)
6:30--	2135 California St.	I001-09A	(accepted 8/25)
7:00--	523 Chestnut St. #C	I001-12A	(accepted 8/25)
	Old Business: Silver Amendment		

September 29, 1987

7 appeal considerations

Eviction Hearing

6:00--	254 Dolores #2	H006-01E	(accept. 8/25) [tentative]
	<u>Appeal Hearing</u>		
7:30--	342-24th Avenue	I001-01R, I001-03R, I001-04R	

October 6, 1987

5 appeal considerations

Eviction Hearings

6:00--	2947 Folsom	G004-06E	(accepted 8/11)
6:30--	245 Henry	G150-28E	(postponed from 8/18)

X. Adjournment

President Marshall adjourned the meeting at 7:15 p.m.

Arbitration Board

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9/22/87



NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,
September 22, 1987

State Building, 350 McAllister St. #1158

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals
 - A. 2370 Union St.
 - B. 1790 Jackson St.
 - C. 730 Leavenworth St. #1
 - D. 945 Larkin St.

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- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Old Business

Discussion of Ordinance Section 37.3(c) adopted effective 9/13/87

- IX. New Business
- X. Appeal Hearings
 - 6:00 A. 1701 Vallejo St.
 - 6:30 B. 2135 California St.
 - 7:00 C. 523 Chestnut St. #C

H002-54A (accepted 7/21/87)
I001-09A (accepted 8/25/87)
I001-12A (accepted 8/25/87)

- XI. Calendar Items
- XII. Adjournment

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2 9/22/87

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, September 22,
1987 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

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I. Call to Order

SEP 29 1987

President Marshall called the meeting to order at 5:35 p.m.

SAN FRANCISCO
PUBLIC LIBRARYII. Roll Call

Commissioners Present: Gartzman; How; Marshall.
Commissioners not Present: Alviar; Armstrong; Curran; Waller.
Staff Present: Hernandez; O'Hearn.

Commissioners Morales and Payne appeared at 5:36 and 5:37 p.m.,
respectively. Commissioner Carrico appeared at 6:15 p.m. at which time
Commissioner How left.

III. Approval of the Minutes

MSC: To approve the Minutes of September 15, 1987 with a
clerical correction on page 2. (How/Morales: 3-0)

IV. Consideration of Appeals

A. 2370 Union St. I001-21A

The landlord, who filed this appeal 23 days after the decision was
mailed, claims that there are errors in rent roll-back calculations and
recoupment ordered due to the landlord's failure to repair ceiling
leaks.

MSC: To remand the case to the hearing officer to determine
whether any corrections are necessary.
(Payne/Morales: 4-0)

B. 1790 Jackson St. I001-22A
units 603 & 405

The landlord appeals the \$30/month rent reductions granted to
correspond with the loss of window washing and floor cleaning
services. By a prior decision issued on May 6, 1987 in consolidated
Case Nos. H007-76T through H007-88T, H008-03T through H008-09T &
H008-42T, the Board previously granted the same reduction for the same
decrease in housing services for other tenants in the building.

MSC: To deny the appeal. (Morales/Marshall: 3-1; Payne
dissenting.)

C. 730 Leavenworth St. #1 I001-23A

The landlords appeal the hearing officer's decision granting a 7% operating and maintenance increase as it applies to the base rent determination for unit #1. The hearing officer determined a corrected base rent and approximately \$2,000 in rent overcharges based on prior null and void increases.

MSF: To accept the appeal and schedule it for hearing before the Board. (Payne/How: 2-2; Morales and Marshall dissenting.)

No action having been taken on this appeal, it is continued to a meeting and time when 5 voting Commissioners are present.

D. 945 Larkin St. I001-26R through I001-29R
units 41, 46, 12, 51 & 11 and I001-31R

Tenants of 5 units appeal the hearing officer's decision granting their landlord's petition for both capital improvement passthroughs (allowing approximately \$20/month) and operating and maintenance increases of 7% in addition to annual and banked increases. Four of the appealing tenants had filed separate petitions which were consolidated with the landlord's petition. The hearing officer denied the tenants' petitions seeking denial of the base rent increases due to the alleged failure of the landlord to repair and maintain the premises.

MSC: To accept the appeal and remand the case to a hearing officer solely on the issue of whether the landlord has already been recompensed for the imputed interest on the capital improvements by virtue of the operating and maintenance increase based primarily on increased debt service including interest on the loan, and to deny the appeal as the other issues raised. (Payne/How: 4-0)

V. Communications

The Board received no communications other than late responses concerning appeals for 2370 Union St. and 945 Larkin St.

VI. Director's Report

A. The Executive Director reported on issues facing the UMB (Unreinforced Masonry Building) Task Force. The Community Advisory Committee will report in early November on recommendations concerning the Rent Ordinance and the Hotel Conversion Ordinance.

B. The Director also reported on his meeting on Monday night, September 21st, with tenants at the request of the new owner of 952 Sutter Street. The new owner plans major renovation work for which increases later will be sought from the Rent Board.

C. The Director noted the Mayor's recent report of a projected budgetary shortfall which results in, among other things, the freezing of personnel expenditures, with the exception of essential personnel.

VII. Appeal Hearings

- A. 1701 Vallejo St. H002-54A (accepted 7/21/87)
units 202, 402, 403 & 406

Formerly, these consolidated tenant petitions were remanded by the Board on February 17, 1987. The landlord appealed the original decision since he did not appear at the original hearing on December 4, 1986. The instant appeal concerns the remand decision which granted rent decreases to correspond with the losses of regular heating, a reliable elevator, leak proof dwellings, and a working sink. In addition the remand decision denied annual rent increases, although none had been imposed since the petitions were filed.

The appeal hearing commenced at 6:20 p.m. and closed approximately an hour and a half later. The landlord appeared with his attorney and the tenants of units 402 & 406 appeared and represented themselves. The tenants of units 202 & 403 failed to appear or to file a written excuse for their non-appearance. The parties testified and submitted photographs and other documents. After the hearing closed, the Commissioners discussed the case and approved the following motion:

MSC: To vacate the hearing officer's remand decision; to grant a 10% rent reduction for May and June 1986 for unit 406 to correspond with the loss of controllable heat; to grant a 15% rent reduction for 46.6 days of rainfall over the past year (or the sum of \$177.97) for unit 402 to correspond with the loss of a leak free dwelling; and if ceiling leaks recur, to direct the tenant to allow the landlord to inspect the leaks and if repairs are needed and not made, to direct the tenant to file another petition. (Carrico/Morales: 3-1; Payne dissenting.)

- B. 2135 California St. I001-09A (accepted 8/25/87)
C. 523 Chestnut St. #C I001-12A (accepted 8/25/87)

The appeal hearings for the above cases were mistakenly noticed for September 29, 1987 instead of September 22, 1987. Therefore, they will be included on the next agenda.

VIII. Old Business

Discussion of Ordinance Section 37.3(c) adopted effective 9/13/87

The Board continued its discussion for the next Board meeting.

IX. New Business

A. Commissioner Gartzman commented on the Board's procedures in conducting appeal hearings and suggested that the Board consider providing advance specific instructions to the parties. The topic will be included on the next agenda for Board discussion.

B. Commissioner Morales commented on the options for appeal remands under Ordinance Sections 37.8(f)(4) & (6). He requested that the Board further discuss this matter at the next Board meeting.

X. Calendar Items

September 29, 1987

7 appeal considerations (including 1 continued from 9/22)

Eviction Hearing- taken off calendar

Appeal Hearings

6:30-- 2135 California St. I001-09A (accepted 8/25)

523 Chestnut St. #C settled & taken off calendar

7:30-- 342-24th Avenue I001-01R, I001-03R, I001-04R

Old Business: Discussions of Ordinance Section 37.3(c);
Board Hearing Procedures; and Board remands.

October 6, 1987

5 appeal considerations

Eviction Hearings

6:00-- 2947 Folsom G004-06E (accepted 8/11)

6:30-- 245 Henry G150-28E (postponed from 8/18)

October 13, 1987

5 appeal considerations

Appeal Hearing

6:00-- 425 Hyde St. #42 H002-18A (accepted 5/5/87)

October 20, 1987

Appeal Hearing Pursuant to Superior Court Order: Parkmerced

X. Adjournment

President Marshall adjourned the meeting at 8:50 p.m.

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#1

9/29/87

NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,
September 29, 1987*****
State Building, 350 McAllister St. #1158

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals

- A. 730 Leavenworth St. #1
- B. 450 Alabama St.
- C. 940 Bay St. #18
- D. 665 Geary St. #102
- E. 130 Eddy St. #409
- F. 2620 Laguna St.
- G. 273 Lexington #A

- I001-23A (cont. from 9/22/87)
- I001-24A
- I001-25A
- I001-30R
- I001-26A
- I001-27A
- I001-28A

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- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions

Report from Staff
4 Peters Ave.

H006-59E

- IX. Old Business

- A. Discussion of Ordinance Section 37.3(c) effective 9/13/87
- B. Discussion of Board Hearing procedures
- C. Discussion of Board remands under Section 37.8(f)(4) & (6)

- X. New Business

- XI. Appeal Hearings

- 6:30 A. 2135 California St. #4 I001-09A (accepted 8/25/87)
- 7:30 B. 342 24th Ave. I001-01R, I001-03R through
- units 102, 303, 104 & 101 I001-05R (accepted 8/4/87)

- XII. Calendar Items

- XIII. Adjournment

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#2 9/29/87

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, September 29,
1987 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

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President Marshall called the meeting to order at 5:32 p.m. OCT 6 1987

II. Roll Call

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Commissioners Present: Alviar; Curran; Gartzman;
Marshall; Morales.
Commissioners not Present: Armstrong; How; Waller.
Staff Present: Hernandez; Wolf.

Commissioner Payne arrived on the record at 5:35 p.m., and Commissioner Carrico arrived at 5:40 p.m. Commissioner Curran went off the record at 6:30 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of September 22, 1987 with the
addition of the following motion under item C, 730
Leavenworth #1 (I001-23A): MSF: To remand to the
hearing officer for a new hearing. (Morales/Marshall:
2-2; Payne and How dissenting)

IV. Consideration of Appeals I001-23A (continued from 9/22/87)

A. 730 Leavenworth St. #1

The landlords appeal the hearing officer's decision granting a 7% operating and maintenance increase as it applies to the base rent determination for unit #1. The hearing officer determined a corrected base rent and approximately \$2,000.00 in rent overcharges based on prior null and void increases.

MSF: To accept this appeal and schedule a hearing before the
Board. (Payne/Alviar: 2-2; Marshall and Morales
dissenting)

Due to the absence of a fifth voting member, consideration of this case was continued until later in the agenda. At that time, the following motion was made and carried:

MSC: To accept this appeal and schedule a hearing before the
Board. (Payne/Alviar: 3-2; Marshall and Morales
dissenting)

B. 450 Alabama Street

I001-24A

The landlord appeals the hearing officer's decision on remand, which recalculates overcharged rents to the tenants. In the landlord's earlier appeal of the original decision, it was alleged that the building is not subject to Rent Board jurisdiction because the tenants rented the premises pursuant to a standard commercial lease. When the tenants negotiated a second lease in 1981, they agreed to illegal increases and the landlord expressly permitted their continued residential use of 1/3 of the space. The landlord also argued that the Board does not have the authority to determine rent overcharges due to the increases.

The Board denied the landlord's first appeal with respect to the jurisdictional issues and remanded the case to the hearing officer for possible corrections regarding the rent overcharge calculations. The landlord's appeal of the remand decision raises essentially the same issues as contained in their original appeal.

MSC: To accept this case and schedule a hearing before the Commissioners on the issues raised in the landlord's appeal, except for Issue #3, which pertains to the constitutionality of the Board's policies.
(Carrico/Payne: 4-1; Marshall dissenting.)

C. 940 Bay Street #18

I001-25A

The landlord appeals the hearing officer's decision granting increases due to capital improvements and operating expenses, but denying such increases for one tenant in the building. The tenant was the previous owner of the building, and the hearing officer found that funds put into escrow at the time of the sale were compensation for the capital improvements claimed later. The hearing officer also disallowed an increase for this tenant for operating expenses, as he was not a tenant during the comparison period.

MSC: To accept the appeal and remand this case to the same hearing officer with instructions that the capital improvements are certifiable to the tenant in unit #18 and to determine the commencement date of that tenancy. (Carrico/Alviar: 5-0)

D. 665 Geary Street #102

I001-30R

One tenant appeals the hearing officer's decision granting rent increases due to capital improvements and increased operating expenses. The basis for the appeal is that the amount of the increase is too much and all that was needed was repair work to the tenant's skylight, and not a whole new window.

MSC: To deny this appeal. (Payne/Alviar: 5-0)

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E. 130 Eddy Street #409

I001-26A

The landlord appeals the hearing officer's decision granting the tenant rent reductions due to decreased housing services. The landlord maintains that certain of the service decreases occurred prior to his ownership of the property and that the hearing officer failed to obtain information regarding the specific date each problem was abated, leading to inaccurate rent reduction calculations.

MSC: To deny this appeal. (Morales/Marshall: 3-2; Carrico and Payne dissenting.)

F. 2620 Laguna Street

I001-27A

The landlord appeals the hearing officer's decision disallowing a rent increase due to the tenant's husband moving into the unit and refunding rent overcharges for past illegal increases. The landlord maintains that the only rent increase at issue was the most recent, due to an additional occupant in the unit.

MSC: To accept this appeal and schedule a hearing before the Board limited to the alleged illegal increases that were imposed prior to the one that was due to the presence of an additional occupant in the unit. (Payne/Carrico: 4-1; Morales dissenting.)

G. 273 Lexington #A

I001-28A

The landlord appeals the hearing officer's decision finding that he had not met his burden of proof for the owner-occupancy exemption from the Ordinance. The landlord alleges that the hearing officer was prejudiced and discriminated against him, and that the record should have been left open for the submission of additional documentation.

MSF: To deny this appeal. (Morales/Marshall: 2-3; Carrico, Payne and Marshall dissenting.)

MSC: To accept this appeal and schedule a hearing before the Board. (Payne/Carrico: 3-2; Alviar and Morales dissenting.)

V. Appeal Hearings

A. 2135 California St.

I001-9A (accepted 8/25/87)

The landlord appealed the hearing officer's decision on July 31, 1987. The decision ordered refunds of overcharges due to several years of null and void rent increases. In his appeal, the landlord asserted that the relationship in this case was that of employer-employee, and not landlord-tenant. He therefore contended that no rent increase had taken place but, rather, a reduction of the tenant's management services with a corresponding reduction in the credit against the rent. The appeal hearing began at 6:39 p.m. Testimony centered on the rent increase history, the understanding of the new owner at the time he 1271A

purchased the property, and the specific services performed by the tenant and their value. After the hearing concluded at 8:15 p.m., the Commissioners discussed the case and made the following motion:

MSC: That the rent in February 1981 was \$355.00 with a \$100.00 credit toward management services for a base rent of \$455.00; that with allowable increases, the rent as of 3/1/85 would have been \$563.00; that the tenant is therefore entitled to a refund in the amount of \$1,976.12; and her new base rent is set at \$608.94 with an anniversary date of 3/1/88.
(Morales/Marshall: 5-0)

B. 342 24th Avenue I001-01R, I001-03R through
#102, 303, 104 & 101 I001-05R (accepted 8/4/87)

Tenants of four units appealed the hearing officer's decision granting their landlord's petition for a capital improvement pass-through of \$71.42 per unit per month. Although the hearing officer found that the tenants regularly complained to the landlord between 1981 and 1985 about dampness, mold, mildew and dark wall stains, the work in 1986 necessitated by the roof leaks and dryrot was not the result of deferred maintenance by the current landlords, who became owners on May 31, 1985. However, the former landlord continued to manage the property until just before the work commenced and ownership was transferred to a daughter and son-in-law who had been involved in maintenance decisions regarding the property for many years.

The appeal hearing began at 8:30 p.m. Testimony focused on the conditions in the building, the landlord's knowledge thereof, and whether the proper permits had been obtained prior to the application for certification of the work. Upon conclusion of the hearing at 9:39 p.m., the Commissioners discussed the case and made the following motion:

MSC: To uphold the hearing officer's decision with an additional finding that the capital improvements are certifiable, as deferred maintenance was not proved.
(Payne/Carrico: 3-2; Marshall and Morales dissenting.)

VI. Communications

The Board received the following communications:

A. Eviction statistics for fiscal years 1985 and 1986.

B. An invitation to a commercial leasing seminar.

C. The tenant's response to the landlord's appeal regarding the case at 275 Lexington Street #A (I001-28A).

D. The appeal decision for the case at 3137A Mission Street (I001-04A), which was approved by the Board and signed by President Marshall.

VII. Director's Report

Executive Director Hernandez informed the Board that he will be attending a training in conflict resolution on October 1st and 2nd.

VIII. Consideration of Allegations Re: Evictions

The Board received an update from the Eviction Unit Supervisor regarding the case at 4 Peters Avenue (H006-59E; see Minutes of 7/28/87), in which she recommended that the Commissioners immediately set this case for a hearing to determine whether the matter should be referred to the District Attorney for prosecution.

MSC: To accept the staff recommendation.
(Carrico/Alviar: 5-0)

IX. Old Business

The Board deferred the old business scheduled to next week's agenda.

X. Calendar Items

October 6, 1987

5 appeal considerations
1 eviction reconsideration
2 eviction hearings:

6:00 2947 Folsom G004-06E (accepted 8/11)
6:30 245 Henry G150-28E (postponed from 8/18)

Old Business: Discussion of Ordinance Section 37.3(c), effective 9/13/87; Board hearing procedures; and Board remands under Section 37.8(f)(4)&(6).

October 13, 1987

5 appeal considerations
3 appeal hearings:

6:00 425 Hyde #42 H002-18A (accepted 5/5)
6:30 2620 Laguna I001-27A (accepted 9/29)
7:00 273 Lexington #A I001-28A (accepted 9/29)

October 20, 1987

5 appeal considerations
2 appeal hearings:

6:00 Parkmerced - pursuant to Superior Court Order
7:00 730 Leavenworth #1 I001-23A (accepted 9/29)

XI. Adjournment

President Marshall adjourned the meeting at 10:25 p.m.



SF
R52
#1

10/6/87

NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,

October 6, 1987

State Building, 350 McAllister St. #1158

AGENDA

DOCUMENTS DEPT.

OCT 6 1987

SAN FRANCISCO
PUBLIC LIBRARY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals

A. 725 Monterey Blvd. #10	I001-39A (corrected no.)
B. 324 Scott St. #1	I001-29A
C. 515 John Muir Dr. #505	I001-30A
D. 601 O'Farrell St. #702	I001-32R
E. 191 5th Avenue #2	I001-31A

- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions

A. Request for Reconsideration 1868 Page St. #3	I001-32A
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B. Hearings

6:00 p.m. 1. 2947 Folsom St.	G004-06E (accepted 8/11)
6:30 p.m. 2. 245 Henry St.	G150-28E (accepted 7/28)

- IX. Old Business

- A. Discussion of Ordinance Section 37.3(c) effective 9/13/87
- B. Discussion of Board Hearing procedures
- C. Discussion of Board remands under Section 37.8(f)(4) & (6)

- X. New Business

- XI. Calendar Items

- XII. Adjournment
1270A

Arbitration Board

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, October 6,
1987 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

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I. Call to Order

President Marshall called the meeting to order at 5:32 p.m.

II. Roll Call

Commissioners Present: Alviar; Gartzman; Marshall.
Commissioners not Present: Armstrong; Curran; How; Morales;
Payne; Waller.
Staff Present: Hernandez; Wicks.

Commissioner Carrico appeared on the record at 5:35 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of September 29, 1987, with the
following correction: p. 4, Appeal Considerations:
B. 342-24th Ave. #102, 303, 104, 101:
MSC: To certify the capital improvements, as
deferred maintenance was not proved.
(Alviar/Gartzman: 3-0)

IV. Consideration of Appeals

A. 725 Monterey Blvd. #10 I001-39A

The landlord appealed the hearing officer's dismissal of his petition since he had not appeared at the hearing and the tenant had further registered an objection to the petition. On appeal the landlord stated that he did not appear because he had made an incorrect notation in his datebook; he insisted that any tenant objection was purely heresay.

MSC: To uphold the hearing officer and deny the appeal.
(Alviar/Gartzman: 3-1; Carrico dissenting.)

B. 324 Scott St. #1 I001-29A

The initial tenancy began in 1982, with two residents in a three-bedroom apartment in a two-unit building. A new rental agreement was signed in 1985 before transfer of the property to the new owner; although only one name was on the agreement, the purchaser knew several persons occupied the unit. In June 1986 the tenants signed a lease with a retroactive increase of \$161, with an option to rent with a \$50 increase the following year; the owner had discussed his need for a

market rent increase. Without notice a rooftop deck, represented as part of the rental, was removed and roof repairs instigated. Approximately 10 months later the deck was replaced. On appeal the landlord argued the excessiveness of the hearing officer's rent reduction, specifically noting that the allowed banked increase of 8% was incorrect, and 16% was instead the correct amount.

MSC: To deny the appeal, but have Staff inform the landlord of the DeWolf decision and his rights concerning banking. (Carrico/Alviar: 4-0)

C. 515 John Muir Drive, #505 I001-30A

The landlord appealed the hearing officer's determination that granted the tenants a rent reduction of \$4 per day for loss of use of the swimming pool and jacuzzi. The tenants testified that their decision to rent in the 720-unit complex rested in great part on the presence of these facilities, which they each used 3-6 times a week. The owner anticipated repairs would take two weeks; a contractor's delay resulted in closure for 30 days. The hearing officer granted an award only for the time over the landlord's original estimate. The landlord argued that the work was an improvement and took longer because of unforeseen complications.

MCS: To uphold the hearing officer's ruling and deny the appeal. (Gartzman/Alviar: 4-0)

D. 601 O'Farrell St. #702 I001-32R

A tenant appealed the decision of the hearing officer allowing a rent increase for operating and maintenance expenses. The 79-unit property was purchased in April 1985; the petition covered May 1985 through April 1987, with the majority of the increase for debt service. Several loans were obtained, including refinancing with fluctuating, variable loans. On appeal the tenant argued that the decision did not take into consideration a \$500,000 profit realized by consolidating mortgages. In rebuttal the landlord maintained that refinancing was sought in order to correct a negative cash flow, and that all monies so obtained were put back into the building. The landlord also asked for an administrative correction to reinstate expenses to the years originally petitioned for.

MSC: To uphold the hearing officer and deny the appeal. (Carrico/Alviar: 3-0; Gartzman abstaining.)

E. 191 5th Avenue #2 I001-31A

The hearing officer's ruling was appealed by the landlord who argued that a decrease in services for conversion to individual heat was granted on an average of only two months' PG&E bills. At the time of occupancy in 1983, the landlord paid for steam heat and furnished the tenant with a washer and dryer. In April 1987 steam heat was replaced by electric heat, payable by the tenant. The tenant argued that her utility costs went from \$13.76 before conversion to \$81.44 and \$120.14

for the first two months after conversion. The tenant protested that holes left from the heating conversion and removal of the laundry resulted in substantial heat loss; this was remedied in June 1987. The landlord argued that the corresponding rent reduction was larger than that requested by the tenant in her petition.

It was the consensus of the Board to hold over this consideration for two weeks in order to give the tenant time to review and reply to the landlord's late submission of evidence.

V. Consideration of Allegations of Wrongful Eviction

A. Request for Reconsideration and Staff Recommendation

1. 1868 Page St. #3 I001-32A

Over a period of 1 1/2 years, two hearing officers found evidence of wrongful eviction. The landlord had originally sent notices for substantial rehabilitation without obtaining all the permits to perform this work. Six of the nine tenants vacated; the other three filed with the Rent Board. The original estimate for the work to be completed was three months; the Rent Board reinstituted its investigation when it was learned the tenants had not been let back in nearly a year later. The Rent Board investigated the unexplained delay and the landlord's resistance to allowing one complaining tenant back in and refusal to let another, as well as her lack of effort in contacting any of the original six who vacated. In rebuttal the landlord argued that the bad actions of the subject tenant, as well as his agreeing to a settlement upon vacating, rendered his tenancy terminated without the right of reentry.

MSC: To deny the landlord's request for reconsideration.
(Gartzman/Carrico: 4-0)

MSC: To accept Staff recommendation and set the case for a Board hearing to consider further action.
(Carrico/Alviar: 3-1; Gartzman dissenting.)

2. 2620 Laguna St. #8 I002-44E

The Eviction Unit Supervisor informed the Board that a Report of Alleged Wrongful Eviction has been filed, concerning the same property for which an appeal hearing is scheduled before the Board on November 17th [No. I001-27A, appeal on remand decision]. Since the landlord had recently been sent a cautionary letter by the Commissioners on another eviction matter, and since there is evidence of possible wrongful eviction on several counts, the Eviction Unit requested that the eviction matter be consolidated and heard with the landlord's appeal. It was the consensus of the Commissioners to grant the request.

B. Eviction Hearings

1. 2947 Folsom St. G004-06E

This case originally came to the Board in February 1986 when the primary landlord attempted to evict the tenant and her family, who had lived in the unit 15 years. The tenant received the first eviction notice after hiring an attorney to caution the landlord against unauthorized entries; the landlord had noted to the tenant and her daughter that he could get more money for her apartment, as well. The tenant testified that the landlord told her to cancel her Rent Board hearing or he would hire an attorney and use the occupancy of a relative as a reason for evicting her. She prevailed in the April 1986 decision.

In November 1986 the landlord and his wife transferred a 1/3 interest in the property to her nephew, for no consideration. In February 1987 the tenant received an eviction notice, discovered later to be for the occupancy of the nephew. The nephew's testimony as to his intentions for use of the four-bedroom included eventually getting married and raising a family. The landlord's attorney argued that although the "master" landlord had made mistakes in the past, there was no evidence of bad faith or wrong dealing on the part of the nephew, the evicting owner.

MSC: To find that this eviction attempt is being pursued in bad faith, with ulterior reasons, and without honest intent. If the Unlawful Detainer action is not dismissed with prejudice within seven days, the Rent Board will ask the City Attorney to intervene to stop the eviction. (Gartzman/Alviar: 4-0)

2. 245 Henry G150-28E

The tenant filed with the Rent Board in early January 1986, alleging four past wrongful eviction attempts: 1981--for unsubstantiated damage; 1985--for renovation; September 1986--for occupancy of an owner; October 1986--for nonpayment of rent, even though the landlord had failed to pick up the payment sent certified; November 1986--for occupancy of the owner's son. The hearing officer found a history of wrongful eviction attempts, harassment, and refusal to cooperate with the Rent Board.

Subsequent to this ruling, the tenant requested the Rent Board's aid: the landlords had sealed the tenant's rear door and demolished her back deck/stairs. BBI had cited the landlord several times for doing work without permits and made them dismantle the deck 3 or 4 times; the Fire Marshall also cited the lack of usable stairs as a life-threatening hazard. At the Board hearing the landlords testified that their contractor had failed to obtain a permit and continued to do the work improperly, beyond their control. They stated that their intent was to make the six-unit building primarily a family residence, but they did not explain why the landlord's son had not moved into a comparable unit which had been vacant for some time. There is no outstanding eviction 1274A

notice, and the landlord recently cashed several months rent checks earlier tendered by the tenant.

MSC: To find that there have been several wrongful eviction attempts, to maintain jurisdiction over the matter, and continue to monitor the case. (Gartzman/ Carrico: 4-0)

VI. Communications

- A. A letter concerning the case at 191-5th Ave. #2 was distributed.
- B. The Small Business Advisory Committee invited the Commissioners to attend their October 13, 1987 meeting.

VII. Old Business

- A. There was a request that the Commissioners review and discuss the letter from Don Hesse of the Human Rights Commission, recently sent to the Board.
- B. Commissioner Gartzman distributed her proposals for formulating a Board hearing format. This topic will be discussed next week.
- C. It was decided to delete discussion of the Silver Amendment from the agenda.

VIII. Calendar Items

October 13, 1987

5 appeal considerations

Old Business: Board hearing procedures; Board remands under Section 37-8(f)(4)&(6); and Letter from Don Hesse.

1 appeal hearing: 425 Hyde #42 H002-18A (accepted 5/5)

October 20, 1987

5 appeal considerations

1 appeal hearing: Parkmerced - pursuant to Superior Court Order

October 27, 1987

8 appeal considerations

1 eviction hearing: 6:00 4 Peters Ave. (H006-59E accepted 9/29)

1 appeal hearing: 7:00 450 Alabama (I001-24A accepted 9/29)

November 3, 1987: Election Day--no Board meeting.

November 10, 1987 appeal hearings:

6:00 730 Leavenworth #1 I001-23A (accepted 9/29)

6:30 273 Lexington #A I001-28A (accepted 9/29)

November 17, 1987 appeal hearing:

6:00 2620 Laguna #8 I001-27A (accepted 9/29)

IX. Adjournment

President Marshall adjourned the meeting at 8:52 p.m.
1274A

Arbitration Board



NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,
October 13, 1987

State Building, 350 McAllister St. #1158

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals

DOCUMENTS DEPT.

OCT 13 1987

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- | | | |
|----|----------------------|----------|
| A. | 3311-A Army St. | I001-33A |
| B. | 330 Alemany Blvd. #8 | I001-34A |
| C. | 419 Naples | I001-35A |
| D. | 731 47th Ave. #2 | I001-36A |
| E. | 645 Central Ave. | I001-37A |
| F. | 3054 Lyon St. | I001-34R |

- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Old Business
- | | |
|----|--|
| A. | Discussion of Board Hearing procedures |
| B. | Discussion of Board remands under Section 37.8(f)(4) & (6) |
| C. | Discussion of letter from Human Rights Commn. re: 601
O'Farrel St. landlord petition. |

- IX. New Business

- XI. Appeal Hearing

6:00 425 Hyde St. H002-18A (accepted 5/5/87)

- XII. Calendar Items

- XIII. Adjournment

1278A



Arbitration Board

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, October 13,
1987 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

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I. Call to Order

President Marshall called the meeting to order at 5:30 p.m.

II. Roll Call

Commissioners Present: Armstrong; Marshall; Morales
Commissioners not Present: Alviar; How; Payne; Waller
Staff Present: Hernandez; Wolf

Commissioner Curran appeared on the record at 5:36 p.m. and
Commissioner Carrico appeared at 5:39 p.m. Commissioner Gartzman went
off the record at 6:29 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of October 6, 1987 as written
(Armstrong/Morales: 3-0).

IV. Consideration of Appeals

A. 3311-A Army Street I001-33A

The landlord appeals the hearing officer's decision granting capital
improvement pass-throughs, but disallowing certification of the cost of
a new window for a tenant who had not occupied the unit six months
prior to commencement of the work. The landlord alleges a technical
error in the decision, in that the window was replaced in a different
unit.

MSC: To deny the appeal and issue the technical correction
to the hearing officer's decision prepared by staff
(Morales/Armstrong: 3-0).

B. 330 Alemany Blvd. #8 I001-34A

The landlord appeals the hearing officer's decision granting a rent
reduction due to an inoperative oven. The landlord alleges that the
reason the oven was not repaired sooner was that the tenant was not at
home to permit him access to the unit.

MSC: To deny the appeal (Morales/Armstrong: 3-0).

C. 419 Naples I001-35A

The landlord appeals the hearing officer's decision granting a rent reduction due to the reduction of the amount of storage space used by the tenant in the garage. The landlord maintains that the rental agreement authorizing the tenant's use of the space is not a valid legal document.

MSC: To remand this case to the same hearing officer to re-calculate the rent reduction based on the amount of storage space still available to the tenant and to make it clear that the landlord is entitled to the allowable annual increase with proper notice (Morales/Marshall: 4-1; Carrico dissenting).

D. 731 47th Avenue #2 I001-36A

The landlord appeals the decision of the hearing officer refunding overcharges due to null and void rent increases and granting a two-month rent reduction due to unreasonable delays in getting repairs done. The landlord alleges that the issue of illegal rent increases was not properly before the hearing officer; that one of the rent increases was properly imposed due to the fact that no original tenants remained in the unit, as per the Rent Board's policy; and that the repairs were cosmetic in nature and not necessary for reasons of health or safety.

MSC: To remand this case to the same hearing officer to ascertain whether the allegedly illegal rent increases are in compliance with Board policy expressed in the Dewolf Realty decision, appeal Case Number B136-25 (Carrico/Morales: 5-0).

E. 645 Central Avenue I001-37A

The landlord appeals the hearing officer's decision granting rent reductions due to lack of heat and no working shower. The landlord alleges that the hearing officer was prejudiced and paid no attention to his arguments.

MSC: To deny this appeal (Curran/Armstrong: 5-0).

F. 3054 Lyon Street I001-34R

The tenants of three units appeal the hearing officer's decision granting rent increases due to capital improvements. The tenants allege that they had objected to the work, as it was not necessary for reasons of health or safety; that the work did not benefit them, but rather increased the sale price of the property; that the allowance of imputed interest was not appropriate in this case; and that the hearing officer erred in making a determination regarding base rent.

MSC: To accept the appeal and schedule a hearing before the Board (Morales/Curran: 5-0).

V. Communications

The appeal decision for the case at 1701 Vallejo Street (H002-54A) was approved by the Board and signed by President Marshall, with one clerical correction.

VI. Appeal Hearing

425 Hyde Street #2

H001-18A

The landlord appealed the hearing officer's decision granting the tenant's petition for a rent decrease of \$50.00 per month based on the elimination of elevator service to the basement garage and \$25.00 per month based on the elimination of the buzzer access system. The Board accepted the appeal on the issue of the lack of elevator service only.

The hearing commenced at 6:10 p.m. As both parties agreed that the service has been restored, the focus of the appeal hearing was the appropriate length of time for the rent reduction. As there had been a previous hearing officer's decision finding that the elevator no longer going to the basement did not constitute a substantial decrease in service, the landlord contended that he would have restored the service earlier had he known that a subsequent decision would hold the reverse. Upon closure of the hearing at 6:28 p.m., the Commissioners discussed the case and agreed that a rent reduction was appropriate only for the 9-month period of time between the issuance of the first and second decision, rather than the 13 month period withheld by the tenant, and make the following motion:

MSC: To find that the elimination of elevator service to the basement constituted a substantial decrease in housing services valued at \$50.00 per month for the period July 1986 through March 1987; the tenant shall reimburse the landlord at the rate of \$25.00 per month (Morales/Marshall: 5-0).

VII. Director's Report

The Executive Director presented the Board with a copy of next year's budget and requested that the Commissioners think about where the 1.6% cut requested by Supervisor Molinari could come from.

VIII. Calendar Items

October 20, 1987

4 appeal considerations

1 appeal hearing: Parkmerced - pursuant to Superior Court Order Eviction Case Summary: 1321 4th Avenue (I001-17E)

Old Business

Board hearing procedures; Board remands under Section 37.8(f)(4)&(6); and letter from Don Hesse.

1284A

October 27, 1987

9 appeal considerations (including one continued from 10/6/87)

1 eviction hearing:

6:00 4 Peters Avenue (H006-54E - accepted 9/29/87)

1 appeal hearing:

7:00 450 Alabama (I001-24A - accepted 9/29/87)

November 3, 1987

Election Day - no Board meeting

November 10, 1987

7 appeal considerations

2 appeal hearings:

6:00 730 Leavenworth #1 I001-23A (accepted 9/29/87)

6:30 273 Lexington #A I001-28A (accepted 9/29/87)

November 17, 1987

2 appeal hearings:

6:00 2620 Laguna #8 I001-27A (accepted 9/29/87)

6:30 3054 Lyon I001-34R (accepted 10/13/87)

IV Adjournment

President Marshall adjourned the meeting at 6:39 p.m.



Arbitration Board

NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday,

October 20, 1987

State Building, 350 McAllister St. #1158

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals

DOCUMENTS DEPT.

OCT 19 1987

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|----|----------------------|----------|
| A. | 1714 48th Avenue | I001-38A |
| B. | 516 Ellis Street | I001-41A |
| C. | 1266 Stanyan Street | I001-40A |
| D. | 2108 Hayes Street #8 | I001-27R |

- V. Communications

- VI. Director's Report

- VII. Remarks from the Public

- VIII. Consideration of Allegations of Wrongful Evictions

Case Summary: 1321 4th Avenue I001-17E

- IX. Old Business

- A. Discussion of Board hearing procedures
- B. Discussion of Board remands under Section 37.8(f)(4)&(6)
- C. Discussion of letter from Human Rights Commission
Re: 601 O'Farrell Street (landlord petition).

- X. New Business

- XI. Appeal Hearing

6:00 Parkmerced - pursuant to Superior Court Order

- XII. Calendar Items

- XIII. Adjournment

1283A

Arbitration Board



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, October 20,
1987 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

DOCUMENTS DEPT.

OCT 26 1987

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I. Call to Order

President Marshall called the meeting to order at 5:38 p.m.

II. Roll Call

Commissioners Present:	Astle; Carrico; Gartzman; Marshall; Payne; Waller.
Commissioners Not Present:	Alviar; Armstrong; How; Morales.
Staff Present:	Hernandez; Wicks.

III. Approval of the Minutes

MSC: To approve the minutes of October 13, 1987 as written.
(Carrico/Gartzman: 5-0)

IV. Consideration of Appeals

A. 1714-48th Avenue I001-38A

The landlord appealed the hearing officer's decision granting the tenant rent reductions for lack of heat and falling plaster during certain periods; other issues raised by the tenant were considered inappropriate for rebates. On appeal the landlord argued that the tenant had not shown that the problems actually existed and had not backed up the arguments by witnesses or written documentation.

MSC: To uphold the hearing officer's decision and deny the appeal. (Gartzman/Astle: 5-0)

B. 516 Ellis Street I001-41A

The hearing officer's determination was appealed by the landlord, who argued that one tenant's petition could not be properly adjudicated since the tenant did not attend the hearing, and that the base rent set for another tenant was lower than the amount set by a previous Rent Board ruling. Increases beyond the allowable limits had been declared null and void, with refunds to the tenant and allowable banking explained to the landlord.

MSC: To accept the appeal and remand the case for consideration of the points raised on appeal.
(Carrico/Marshall: 5-0)

C. 1266 Stanyan Street

I001-40A

The landlord appealed the hearing officer's ruling which held that certain past rent increases were excessive and therefore null and void, when such increases were discovered during review of the landlord's application for capital improvement expenses. The owner maintained that since improper rent increases were not a defense to a capital improvement petition, and since the tenant had not filed a petition on the issue, the rent increases were not properly raised and the landlord was denied due process.

MSF: To accept the case at the Board level for a hearing on the issues raised on appeal. (Carrico/Payne: 2-3; Astle, Gartzman and Marshall dissenting)

MSC: To accept the appeal and remand the case to a new hearing officer for clarification of the null and void issue, with notice to the parties of this limited topic. (Astle/Gartzman: 5-0)

D. 2108 Hayes Street #8

I001-27R

The tenant appealed the dismissal of his petition based on his failure to appear at the hearing or to request a postponement. On appeal he explained that because of the medication he was taking for a serious illness, he had overslept and missed the hearing.

MSC: To accept the appeal and remand the case for rescheduling. (Carrico/Gartzman: 4-1; Astle dissenting)

V. Communications

The Commissioners received:

- A. A brief appeal statement on 516 Ellis.
- B. The Mayor's October 20, 1987 press release, noting that Ruth Astle had been sworn in as the new neutral alternate Rent Board Commissioner and that Rita Alviar, Ralph Payne, and Mamie How had been reappointed to the Board.
- C. Monthly statistics for August and September 1987.
- D. A memorandum from City Attorney Louise Renne on topics subject to mandatory review under Proposition M.
- E. The eviction summary and recommendation for 2947 Folsom, heard by the Board October 6, 1987; approved.
- F. A request for postponement for 450 Alabama, scheduled for an October 27, 1987 hearing by the Board; granted.

VI. Director's Report

- A. Executive Director Ricardo Hernandez noted that Eviction Unit Supervisor Wicks was one of three panelists at the October 14, 1987 Barrister's Club Public Education Series.
- B. Mr. Hernandez will speak next week to Balboa High students on the practical aspects of becoming tenants.

VII. Appeal Hearing

Parkmerced--Pursuant to Superior Court Order No. 864-160

The Board had voted on September 15, 1987, to set aside the Amended Rent Board Decision on Appeal, dated November 6, 1985, which allowed an exception to Rules and Regulations Section 4.11. The landlord for Parkmerced had been permitted to use the June 1979 through May 1980 comparison period for utility passthroughs, rather than the calendar year 1980. The Board further voted to set the matter for hearing before them.

Appearing at the hearing were tenants' representative William Robinson, Esq., and landlord's representative Richard Kilmartin, Esq. The tenants' attorney argued that the existing law provided for exceptions in utility increases under Rules and Regulations Section 4.11(f), and that no other exceptions were provided for. Further, application of Rules and Regulations Section 2.18--waiver of regulations--was improperly applied since there was no showing of economic hardships by the landlord or any other evidence that this complex should be handled differently from smaller properties.

In rebuttal the landlord's representative argued that the Rent Board's initial determination in this matter was a correct application of the law and that the Board had previously ruled that Rule 2.18 should be applied in the interest of justice and for good cause. Further, since approximately \$300,000 is at issue, the landlord believes that this is a correct case for the application of the hardship provision.

After discussing the issues and testimony, the Commissioners voted as follows:

MSC: To not grant an exception to Parkmerced for its utility passthrough based on either Rules and Regulations Sections 2.18 or 4.11. (Gartzman/Payne: 3-2; Astle and Carrico dissenting)

VII. Consideration of Allegations of Wrongful Eviction

A. Reports from Staff

1321-4th Avenue I001-17E

This property was the subject of an earlier Rent Board hearing in 1985, at which time it was ruled that the building was under the jurisdiction 1285A

of the Ordinance. Although there are only 4 levels of occupancy and the owner lives on one level, the tenant proved to the satisfaction of the hearing officer--and the Board on appeal--that renting of individual rooms under a guest house arrangement on one level resulted in a total of more than four residential units. The tenant, who has lived in the building since 1977, proved a history of improper, retaliatory rent increases and eviction attempts, following requests for repair and petitions to the Rent Board.

Following the landlord's unsuccessful appeal, the parties signed a lease of 21 months' duration; the agreement contained a clause that the tenant would vacate at the end of the lease unless the property was located in an area with eviction restrictions. However, in June 1987 the tenant received an informal notice of termination, stating that pursuant to the lease clause, the owner was requiring her to vacate by August 1, 1987. Although the landlord did not appear at the second Rent Board hearing, his representative stated that the landlord had agreed to the lease in consideration of foregoing his right to take a Writ on the original decision and in consideration of his agreeing to a rent reduction. The tenant insists there was no such understanding-- and no written document could be produced-- and that the rent she paid was that ordered by the hearing officer. Further, she gained nothing by the landlord's not filing a writ and this action therefore did not constitute consideration for agreeing to an illegal eviction.

EVALUATION & RECOMMENDATION: That the Rent Board has jurisdiction over the case; the history of the parties shows wrongful eviction attempts and improper rent increases, as well as retaliation; and that the current eviction attempt is illegal. It is recommended that the matter be further monitored to determine the status of the proposed writ, and that the Board consider further action.

B. 1090 Hampshire #1 and #2 H007-70E/I001-14E

One of the subject tenants was successful in a 1986 Rent Board eviction proceeding, in which it was found the owner was attempting eviction in bad faith. Now a new owner is attempting to evict this and another tenant for occupancy of the owner and family members. The tenants protested that the transfer was a sham, covering an action really initiated by the former owner.

EVALUATION & RECOMMENDATION: The hearing officer found no evidence of collusion, although certain aspects of the current eviction attempt were disturbing and contradictory. The pending UD should be tracked and the occupancy of the owner and relatives be monitored if they prevail in court.

C. 2974 Folsom Street G004-06E

The Commissioners were informed that the unlawful detainer had been neither withdrawn nor continued. The tenants indicated that they may wish to move because of conditions in the building and the long history of adversarial relations with the owners, as long as any outstanding rent is waived. The Eviction Unit Supervisor asked approval to 1285A

continue monitoring the situation and to write the landlord a letter indicating the Board's continuing involvement in the matter.

D. 3321-22nd Street

H006-85E

The Commissioners were given a status review of this case, including the landlord's failure to return to the United States and continuing pressure by her legal representative for the tenants to purchase the property, as they had indicated they might. The Eviction Unit will continue to monitor the case.

It was the consensus of the Board to accept and approve all Staff and Hearing Officer recommendations on these evictions matters.

VIII. Old Business

- A. The Commissioners discussed at length possible changes in the appeal notices and codification of the hearing procedures. This matter will be considered again at the next meeting.
- B. The letter from the Human Rights Commission staff member concerning 601 O'Farrell was reviewed and discussed.
- C. Discussion of board remands under Section 37.8(f)(4) & (6) is postponed to the next meeting.

IX. New Business

- A. The Board discussed the issues of null and void increases, as well as statutes of limitation on such increases and on the filing of writs. Commissioners Marshall and Carrico will meet to formulate proposals on these topics for the Board's continuing consideration.

X. Calendar Items

October 27, 1987

8 appeal considerations (including one continued from 10/6/87)
1 eviction hearing:

6:00 4 Peters Avenue (H006-54E - accepted 9/29/87)

Old Business: Board hearing procedures; Board remands under Section 37.8(f)(4)&(6); null and void provisions; and statutes of limitations.

November 3, 1987

Election Day - no Board meeting

November 10, 1987

Eviction Reconsideration: 1011 Washington #305 I001-42A

7 appeal considerations and 2 appeal hearings:

6:00 730 Leavenworth #1 I001-23A (accepted 9/29/87)

6:30 273 Lexington #A I001-28A (accepted 9/29/87)

November 17, 1987

2 appeal hearings:

6:00 2620 Laguna #8

I001-27A (accepted 9/29/87)

6:30 3054 Lyon

I001-34R (accepted 10/13/87)

November 24, 1987

1 appeal hearing:

450 Alabama

XI. Adjournment

President Marshall adjourned the meeting at 8:30 p.m.


 SF
 RSZ
 #1

10/27/87

NOTICE OF THE REGULAR MEETING OF THE SAN
 FRANCISCO RESIDENTIAL RENT STABILIZATION
 AND ARBITRATION BOARD, Tuesday,
 October 27, 1987

 State Building, 350 McAllister St. #1158

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals

DOCUMENTS DEPT.

OCT 26 1987

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- | | | |
|----|---------------------|--------------------------|
| A. | 191 5th Avenue #2 | I001-31A (cont. 10/6/87) |
| B. | 4621-23 -18th St. | I001-38R & I001-39R |
| C. | 325 Franklin St. #3 | I001-45A |
| D. | 2011 Vallejo St. #5 | I001-43A |
| E. | 2111 Grove St. | I001-47A |
| F. | 530 -6th Ave. #3 | I001-40R |
| G. | 1363 Page St. | I001-44A |

- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions

- | | | |
|----|-------------------|----------|
| A. | Report from Staff | |
| 1. | 3128 21st St. #8 | H007-41E |
| 2. | 2370 Union | I001-72E |

- | | | |
|------|-----------------|-----------------------------|
| B. | Hearing | |
| 6:00 | 4 Peters Avenue | H006-59E (accepted 9/29/87) |

IX. Old Business

- A. Discussion of Board hearing procedures
- B. Discussion of Board remands under Section 37.8(f)(4)&(6)
- C. Discussion of null and void provisions and statutes of limitation

- X. New Business
- XI. Calendar Items
- XII. Adjournment

1287A



CF
R52
#2 10/21/87

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, October 27,
1987 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

Vice-President Carrico called the meeting to order at 5:34 p.m.

II. Roll Call

Commissioners Present: Armstrong; Astle; Carrico; Payne;
Waller.
Commissioners not Present: Alviar; Gartzman; How; Marshall.
Staff Present: Hernandez; Wicks.

DOCUMENTS DEPT.

Commissioner Morales appeared on the record at 5:40 p.m.

NOV 9 1987

III. Approval of the Minutes

MSC: To approve the Minutes of October 20, 1987, as
written. (Astle/Payne: 5-0)

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IV. Consideration of Appeals

A. 191-5th Ave. #2 I001-31A (contd. 10/6/87)

The hearing officer's ruling was appealed by the landlord who argued that a decrease in services for conversion to individual heat was granted on an average of only two month's PG&E bills. At the time of occupancy in 1983, the landlord paid for steam heat and laundry system. In April 1987 steam heat was replaced by electric heat, payable by the tenant. The tenant argued that her utility costs went from \$13.76 before conversion to \$81.44 and \$120.14 for the first two months after conversion. She protested that holes left from the heating conversion and removal of the laundry resulted in a substantial heat loss; this was remedied in June 1987. The landlord argued that the corresponding rent reduction was larger than that requested by the tenant in her petition.

MSC: To accept the appeal and remand the case to the hearing officer for a hearing on the issues raised on appeal, with specific instructions to determine a set monthly amount for any utility service decrease that may be found.
(Payne/Carrico: 5-0)

B. 4621-23 18th St. I001-38R & I001-39R

Two of three tenants receiving operating and maintenance increases appealed the hearing officer's decision granting the increase. One of

the tenants was not required to pay either the operating increase or the annual 4% increase until repairs were performed. On appeal both tenants pointed to the long history of dispute with this property before the Rent Board, claiming that no increase for the recent transfer to the current owner should be allowed since the transfer was in "bad faith," as discussed in earlier decisions.

MSC: To uphold the hearing officer and deny the appeal.
(Payne/Carrico: 3-2; Morales and Waller dissenting.)

C. 325 Franklin St. #31 I001-45A

The landlord appealed a hearing officer determination granting rent decreases for discontinued extermination service, failure to repair uncontrollable radiators, failure to repair severe roof leaks, a continually overflowing toilet, and other items. A BBI inspection resulted in a citation of the landlord on all counts. On appeal the landlord--who did not attend the hearing--protested that he did not get notice, that extermination service and painting had been performed, and that the tenant caused the toilet overflow. In rebuttal the tenant contended that the notice had been sent in care of the manager, the only address the landlord would furnish, and that only minor repairs had been made.

MSC: To uphold the hearing officer and deny the appeal.
(Astle/Morales: 3-2; Carrico and Payne dissenting.)

D. 2011 Vallejo St. #5 I001-43A

A hearing officer's decision on appeal remand was again appealed by the landlord, concerning a corresponding rent decrease for roof leaks. Both parties had originally agreed to various unsuccessful attempts to remedy the problem, which resulted in leaks, falling plaster, and the tenant's inability to use part of his apartment. In the remand decision the hearing officer stated that the owner had submitted no new information on remand nor had he shown that the earlier calculations were incorrect; therefore no changes in the original decision were made.

MSC: To uphold the hearing officer and deny the appeal.
(Morales/Waller: 4-1; Payne dissenting.)

E. 2111 Grove. St. I001-47A

The landlord's appeal protested the hearing officer's declaration as null and void all rent increases imposed since 1984, because all were above the allowable amount. Although some amounts could have been banked, the banked increases noticed by the owner were more than those to which he was entitled. The proper calculations were provided for the owner by the hearing officer, with advice on how to obtain the correct banked amounts. Nevertheless, on appeal the landlord protested that it was unfair to not allow him to bank increases.

MSC: To uphold the hearing officer and deny the appeal.
(Astle/Morales: 4-1; Payne dissenting.)

F. 530-6th Ave. #5

I001-44A

The tenant appealed the ruling of the hearing officer because allegedly false and misleading information submitted after close of the record was considered by the hearing officer. The decision shows that the record was left open for the tenant to file a BBI report and for the landlord to respond to the tenant's submission. The tenant had petitioned for decreases in service, many items of which were the subject of a July 1987 BBI citation. The owner contested that she had not received notice of problems from the tenant and that after receiving the BBI report she attempted to obtain entry to perform repairs, which the tenant denied access. The hearing officer accordingly did not grant a decrease in services reduction.

MSC: To uphold the hearing officer and deny the appeal.
(Astle/Payne: 5-0)

G. 1363 Page Street

I001-44A

A hearing officer's decision granting rent reductions for habitability problems was appealed by the landlord. Awards were given for a leaking skylight, livingroom leaks, and a hole in a bedroom ceiling. On appeal the landlord argued that she had made repairs, that the tenant had damaged the apartment, and that the tenant constantly gave reason for pursuit of an eviction action.

MSC: To uphold the hearing officer and deny the appeal.
(Morales/Waller: 5-0)

V. Communications

The Commissioners received the following communications:

- A. Statements from both the landlord and tenant for 191-5th Ave.
- B. Statements from one tenant and the landlord at 4621-18th Street.
- C. The hearing officer's response to the appeal for 2011 Vallejo St. #5.
- D. Statements from the tenant, two witnesses for the tenant, and the landlord concerning 325 Franklin Street.

VI. Director's Report

- A. Executive Director Hernandez discussed the budget.
- B. The Rent Board Christmas party is tentatively scheduled for December 19, 1987.

VII. Considerations of Allegations of Wrongful Evictions

A. Report from Staff

1. 3128-21st Street

H007-41E

In 1981 the subject tenant rented one room in a three-bedroom flat under an agreement with a prior owner. He shared bathroom, kitchen, 1290A

and other common areas with other tenants approved by the owner. In 1987 a new owner attempted to evict all tenants in this apartment--including the subject tenant--on the grounds of unapproved subtenancy, overcrowding, nuisance, and running an illegal boarding house. The owner's legal representative admitted that no effort had been made to determine the status of any of the tenants or whether there was any merit to the various stated grounds for eviction. Requests by the tenant's attorney to discuss the matter with the landlord's attorney were not answered, and no statement of the landlord's intent was made until the notices were rescinded before the hearing officer.

EVALUATION & RECOMMENDATION: The hearing officer and Eviction Unit recommend that the landlord and his attorney be sent a strongly-worded statement of the Board's concern about the pursuit of evictions with no basis in fact and for failure to act diligently in informing the tenant that the matter would not be pursued; further monitoring.

2. 2370 Union Street

I001-72E

The tenants had prevailed on a decrease in services petition but had not received the decision by the time they sent their full August 1987 rent. On August 6 the landlord's attorney informed the tenants by phone message that their rent had not been received and a three-day notice would be sent. Immediately after receipt of the message the tenant's wife attempted to hand-deliver the rent to the landlord, at the reduced amount ordered by the hearing officer. The landlord made delivery of the check difficult but did accept it; however, she refused to sign an acknowledgment of receipt. The tenants were not informed of the rescission of the 3-day notice until one month later, at the Rent Board eviction hearing. Previous efforts of the tenants to obtain repairs had been unsuccessful. The landlord's attorney had refused to allow repairs of serious roof leaks to be made until he had arranged an inspection; repairs were made 7 months later, just before the hearing on the tenants' petition.

EVALUATION & RECOMMENDATION: The actions of the landlord and her attorney show a lack of diligence in making repairs, in attempting to make difficult payment of the reduced rent, and in refusing to acknowledge payment or rescind the outstanding 3-day notice. The hearing officer and Eviction Unit recommend a cautionary letter to the landlord and her attorney, as well as further monitoring.

MSC: To accept the Staff recommendations.
(Payne/Astle: 5-0)

B. Eviction Hearing

4 Peters Avenue

H006-59E

The tenants reside in a single unit located on the same parcel as a four-unit, owner-occupied structure. The owners erroneously believed that the tenants' unit was not under the jurisdiction of the Rent 1290A

Ordinance. In March 1987 the tenants complained to BBI about disruptive construction by the landlord in their building; the owner was cited for building without permits and constructing in violation of the building codes. Immediately after, the tenants received a 5-day notice of an improper \$170 rent increase. The day after giving the landlord a written statement of repairs needed, a defective 3-day notice was served for failure to pay the rent increase, citing periods before the notice had even been served. Shortly after, a legally improper 15-day notice was served for vacancy because of repair needs; as of the hearing 3 months later, no permits had been applied for, nor had any of the other requirements of Rules Section 12.15 been followed. The next month a 3-day notice for nonpayment for two months was served; the tenants produced receipts signed by the owners, indicating that the rent had been paid before the notice was prepared.

The tenants prevailed both on their decrease in services petition for serious habitability problems and on their wrongful eviction report. An Unlawful Detainer filed in May contained several legal deficiencies and was later dismissed with prejudice. In a request for further assistance, the tenants' attorney informed the Board that another UD had been filed for failure to pay rent, although the sums at issue were those subtracted by the tenant pursuant to the hearing officer's order on the tenant's petition. Further, the landlord had nailed shut the tenants' back door until cited by the Fire Marshall, and threats had allegedly been made to the safety of the tenants' young children.

At the hearing before the Board, only the attorneys of the parties appeared. The Commissioners were informed that both a Wrongful Eviction suit had been filed by the tenants and a UD filed by the landlord, with the UD to be heard October 28, 1987. The tenants' attorney explained that 4 Peters itself is an illegal unit with no certificate of occupancy and no listing in the city records. This apartment was built by the owner, as he is also attempting to build another illegal unit. Tenants' counsel explained that although the current UD does take into consideration future decrease in services reductions, it did not allow for the lump sum awarded by the hearing officer for past decreases. In defense of her client, the owner's attorney stated that the actions of the landlord were done in ignorance and did not reach the level of criminal activity.

After reviewing the evidence and discussing the testimony, the Commissioners voted as follows:

MSC: To find an attempted wrongful eviction.
(Payne/Astle: 5-0)

At 7:03 p.m. the Commissioners went into executive session pursuant to Government Code Section 54956.9(a) to discuss possible litigation. They returned on the record at 7:10 p.m. and made the following motion:

MSC: To send the case to the City Attorney for civil prosecution. (Payne/Morales: 5-0)

VIII. Old Business

- A. Discussion of Board hearing procedures and statutes of limitations will be continued to next week.
- B. Commissioner Morales asked that the topic of Board remands be removed from the agenda for the present.

IX. New Business

Commissioner Astle discussed imposing a statute of limitations on banking, since the Board was considering imposing such limits on the tenants' right to protest excessive past rent increases. This matter will be taken up in the future.

X. Calendar Items

November 3, 1987

Election Day - no Board meeting

November 10, 1987

Eviction Reconsideration: 1011 Washington #305 I001-42A

8 appeal considerations and 2 appeal hearings:

6:00 730 Leavenworth #1 I001-23A (accepted 9/29/87)

6:30 273 Lexington #A I001-28A (accepted 9/29/87)

Old Business: Board hearing procedures

Statutes of limitation on null and void & banking

November 17, 1987

10 appeal considerations

2 appeal hearings:

6:00 2620 Laguna #8 I001-27A (accepted 9/29/87)

6:30 3054 Lyon I001-34R (accepted 10/13/87)

November 24, 1987

appeal considerations

2 eviction hearings:

6:00 254-A Precita H006-45E (rescheduled from 9/15)

7:00 1868 Page G166-46E/G166-48E (accepted 10/6)

December 1, 1987

6:00 1 appeal hearing:

450 Alabama

XI. Adjournment

Vice-President Carrico adjourned the meeting at 7:20 p.m.



SF
R52
#1

11/10/87

NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,
November 10, 1987

State Building, 350 McAllister St. #1158

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals

DOCUMENTS DEPT.

NOV 9 1987

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- | | | |
|----|--------------------------|----------|
| A. | 999 Fell Street #1 | I001-46A |
| B. | 291 Santos St. | I001-50A |
| C. | 1096 Pine St. | I001-48A |
| D. | 1100 Gough St. | I001-51A |
| E. | 489-A Dolores St. | I001-49A |
| F. | 1031 Leavenworth St. #10 | I001-52A |
| G. | 1316 Guerrero St. | I001-54A |
| H. | 3014-A Sacramento St. | I001-53A |

- V. Communications

- VI. Director's Report

- VII. Remarks from the Public

- VIII. Consideration of Allegations of Wrongful Evictions
Request for Reconsideration
1011 Washington St. #305 I001-42A

- IX. Old Business

- A. Discussion of Board hearing procedures
- B. Discussion of null and void provisions and statutes of
limitation on null and void & banking

- X. New Business

- XI. Appeal Hearings

- | | | |
|------|---------------------------|-----------------------------|
| 6:00 | A. 730 Leavenworth St. #1 | I001-23A (accepted 9/29/87) |
| 6:30 | B. 273 Lexington #A | I001-28A (accepted 9/29/87) |

- XII. Calendar Items

- XIII. Adjournment

1294A



2
7/87
MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, November 10,
1987 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Marshall called the meeting to order at 5:32 p.m.

II. Roll Call

Commissioners Present: Astle; Marshall; Morales
Commissioners not Present: Alviar; Armstrong; Carrico; Payne
Staff Present: Hernandez; Wolf

Commissioner How appeared on the record at 5:33 p.m.
Commissioner Waller appeared at 5:39 p.m.; and Commissioner Gartzman
appeared at 5:43 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of October 27, 1987 as written
(Astle/Morales: 4-0).

IV. Consideration of Appeals

A. 999 Fell Street #1 I001-46A

The landlord appeals the remand decision granting a 10% rent reduction
due to decreased housing services. Due to a computer error, the
tenant's rent had mistakenly been reduced by 35%, and the landlord
argues that this amount is more than sufficient to compensate for any
service decreases.

MSC: To accept the appeal and schedule this case for a
hearing before the Board (Astle/Morales: 4-0).

B. 291 Santos Street I001-50A

The landlord appeals the hearing officer's decision refunding
overcharges due to the imposition of a \$50.00 rent increase because of
the birth of the tenant's fourth child. The landlord maintains that
the \$50.00 also included late charges that were owed, and that there
was an agreement that, by paying the increased rent, the tenant would
be allowed to pay rent late.

MSC: To deny the appeal (Astle/Morales: 4-0).

C. 1096 Pine Street I001-48A

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The landlord appeals the hearing officer's decision certifying capital improvement pass-throughs, but refunding overcharges due to a PG&E pass-through having been included in base rent. The landlord requests that only the actual amounts overcharged be refunded, as opposed to the hearing officer's determination that the entire amount of the increase was null and void.

MSC: To deny the appeal (Morales/Marshall: 4-0).

D. 1100 Gough Street I001-51A

The landlord appeals the hearing officer's denial of a rent increase for increased operating expenses due to the landlord's failure to document increased insurance costs. Due to an oversight on the part of his bank, the landlord was not billed for insurance expenses until one year following their accrual, and the landlord alleges that the cancelled checks were lost by his accountant.

MSC: To deny the landlord's appeal without prejudice to the re-filing of another petition (Astle/Morales: 4-0).

E. 489A Dolores Street I001-49A

The landlord appeals the decision of the hearing officer granting rent reductions due to decreased housing services. The landlord maintains that the hearing officer erred in not attempting to conciliate the matter, that the Findings of Fact contain assumptions and inaccuracies, and that the subject property meets all City Code requirements.

MSF: To deny the appeal (Morales/Marshall: 2-2; Astle, How dissenting).

Later in the Agenda, the following motions were made, seconded and carried:

MSC: To reconsider the appeal regarding 489A Dolores Street (Astle/Morales: 4-0).

MSC: To deny the appeal (Morales/Marshall: 3-1; How dissenting).

F. 1031 Leavenworth #10 I001-52A

The landlord appeals the hearing officer's decision refunding overcharges due to a \$50.00 rent increase for an additional occupant in the unit. The landlord alleges that a portion of the increase was due to a PG&E pass-through; that the illegal increase was issued by a prior owner; and that the hearing officer exceeded her authority, as prior rent increases were not at issue at the hearing.

MSC: To accept the appeal and remand this case to the same hearing officer on the issue of the alleged PG&E pass-through only (Astle/Morales: 4-0).

G. 1316 Guerrero Street

I001-54A

The landlord appeals the hearing officer's decision granting rent reductions due to severe habitability problems in the unit. The landlord avers that the hearing officer erred in not considering the rent increase history for the unit and comparable rents in the area; that the amount of the award was excessive; and that the owner hadn't been in a financial position to remedy the conditions.

MSC: To deny the appeal (Astle/Morales: 4-0).

H. 3014A Sacramento Street

I001-53A

The landlord appeals the decision of the hearing officer granting a rent reduction due to failure to replace a carpet that emitted strong odors from the previous tenant's dog. The landlord argues that there had been no agreement to replace the carpet and the current tenant's own dog is partially responsible for the problem.

MSC: To excuse Commissioner Astle from consideration of this appeal (Astle/Morales: 4-0).

MSC: To deny the appeal (Morales/How: 4-0)

V. Appeal Hearings

A. 730 Leavenworth Street #1 I001-23A

The landlord appealed the hearing officer's decision granting a 7% operating and maintenance increase but determining a corrected base rent and refunding approximately \$2,000.00 in rent overcharges based on prior null and void increases. The landlord felt that, as the amounts in excess of the legal limitations were quite small and had been imposed by a prior owner, the new owner should not be held responsible.

During the course of the hearing, which commenced at 6:09 p.m., it became clear that there was a desire for cooperation and amicable feelings between the parties. Therefore, the Commissioners recessed the hearing in order to allow the parties to enter into settlement negotiations. At 6:27 p.m., it was reported that an agreement had been reached and that the tenant would receive the sum of \$999.00, to be recouped by his not paying rent for three months.

MSC: To accept the settlement arrived at by the parties as the Board's decision in this case (How/Astle: 4-0).

B. 273 Lexington Street #A

I001-28A

The landlord appealed the hearing officer's decision finding that he had not met the requisite burden of proof for the owner-occupancy exemption from the Ordinance. The landlord alleged that the hearing officer was prejudiced and discriminated against him, and that the record should have been left open for the submission of additional documentation.

The hearing commenced at 6:50 p.m. and concluded at 8:05 p.m. The landlord submitted documentation in the form of PG&E and phone bills, and presented witnesses who testified that he lived in the subject premises. During their post-hearing discussion of the case, the Commissioners agreed that while the landlord may now reside in the building, he did not live there as of the effective date of the rent increase notice.

MSC: That the landlord's principal place of residence as of December 1, 1986 was not 273 Lexington Street. Therefore, the rent increase notice to take effect on June 1, 1987 is null and void (Astle/Morales: 4-0).

VI. Communications

The Commissioners received the following communications:

A. Appeal decisions for the cases at 245 Henry #245 (G150-28E), 425 Hyde #42 (I002-18A), 2135 California Street (H001-09A) and 342 24th Avenue (I001-01R, I001-03R through I001-05R), which were approved by the Board and signed by President Marshall.

B. A statement from the landlord at 273 Lexington #A (I001-28A).

C. A statement from the landlord's attorney at 1014A Sacramento Street (I001-53A).

D. A statement from the landlord's attorney at 164 Valley #9 (I001-56A).

E. The hearing officer's response to the appeal at 48 Cornwall (I001-58A).

F. The workload statistics for the month of October.

G. A current roster of Rent Board Commissioners and staff.

VIII. Director's Report

The Executive Director reported that the Controller's Office is requesting 1.6% budget cutbacks from each Department head. Additionally, he has met with the Department of Public Works regarding re-wiring the building housing the Rent Board offices for space heaters.

VIII. Considerations of Allegations of Wrongful Evictions

A. Request for Reconsideration and Staff Recommendation

1011 Washington Street #305 I001-42A

The landlord issued a 30-day notice to vacate the unit for the use of his daughter. Approximately one month later, a second 30-day notice 1299A

was issued for the same reason. The hearing officer found an attempted wrongful eviction as a comparable unit became available during the first 30-day notice period. In rebuttal, the landlord argued that the units were not comparable, and that the second 30-day notice served to rescind the first notice. The Eviction Unit Supervisor recommended that the landlord be informed that the case will be monitored and the Commissioners will consider taking further action if the Unlawful Detainer is pursued.

MSC: To accept staff recommendations and send a letter to the landlord post haste (Astle/How: 4-0).

IX. Old Business

The Board's discussion of appeal hearing procedures was continued for one week and the discussion of a statute of limitations for null and void and banked rent increases will be held in two weeks.

X. Calendar Items

November 17, 1987

10 appeal considerations

2 appeal hearings:

6:00 2620 Laguna #8 I001-27A (accepted 9/29/87)

6:30 3054 Lyon I001-34R (accepted 10/13/87)

Old Business: Board hearing procedures

November 24, 1987

8 appeal considerations

2 eviction hearings:

6:00 254A Precita H006-45E (rescheduled from 9/15)

7:00 1868 Page G166-46E/G166-48E (accepted 10/6)

Eviction update: 230 Lowell #2B

Old Business: statute of limitations on null and void and banked rent increases.

December 1, 1987

5 appeal considerations

1 eviction reconsideration

2 appeal hearings:

6:00 450 Alabama I001-24A (accepted 9/29)

6:30 999 Fell #1 I001-46A (accepted 11/10)

XI. Adjournment

President Marshall adjourned the meeting at 8:31 p.m.



SF
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#1
11/17/87

NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,
November 17, 1987

State Building, 350 McAllister St. #1158

AGENDA

- I. Call to Order
- II. Roll Call
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- IV. Consideration of Appeals

DOCUMENTS DEPT.

NOV 16 1987

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A.	632 Persia	I001-55A
B.	164 Valley #9	I001-56A
C.	641 Capp Street	I001-57A
D.	42 Cornwall	I001-58A
E.	142 Clinton Park	I001-61A
F.	455 29th St.	I001-59A
G.	2040 Franklin	I001-60A
H.	2994 Pine St.	I001-62A
I.	853 Alabama	I001-63A
J.	1306-10 Minna	I001-64A

- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions

- IX. Old Business
- Board hearing procedures

- X. New Business
- XI. Appeal Hearings:

6:00	A.	2620 Laguna Street	I001-27A & I022-44E (accepted 9/29)
6:30	B.	3054 Lyon Street	I001-34R (accepted 10/13)

- XII. Calendar Items
- XIII. Adjournment

1300A



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, November 17,
1987 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

Commissioner Payne called the meeting to order at 5:36 p.m.

II. Roll Call

Commissioners Present: Alviar; Armstrong; Gartzman;
Payne.
Commissioners not Present: Astle; Carrico; Morales; Waller.
Staff Present: Hernandez; O'Hearn.

President Marshall appeared on the record at 5:40 p.m. and Commissioner How appeared at 6:04 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of November 10, 1987 as
corrected on page 3. (Alviar/Gartzman: 3-0)

IV. Consideration of Appeals

A. 632 Persia St. I001-55A

The hearing officer granted a 50% rent reduction to correspond with the loss of various housing services, including heat. In his appeal, the landlord admits that the property needs work, but that some of the conditions existed when the tenant moved in. The landlord also argues that the tenant should have used withheld rent to purchase a heater and correct other problems.

MSC: To deny the appeal. (Gartzman/Alviar: 3-0)

B. 164 Valley St. #9 I001-56A

The hearing officer determined rent overcharges of \$550 due to an illegal increase. The landlord failed to appear at the hearing and his attorney, who is familiar with Board proceedings and whom he had contacted before the hearing, did not submit a postponement request until two days after the hearing.

Although the filing of the appeal does not stay the decision, the landlord refused to accept the tenants' rent without the increase. The landlord subsequently gave the tenant a three-day notice to pay rent or surrender possession and the tenant filed a Report of Alleged Wrongful Eviction.

MSC: To deny the appeal. (Alviar/Gartzman: 4-0)

1305A

C. 641 Capp St.

I001-57A

The hearing officer determined rent overcharges due to a 1986 rent increase from \$390.00 to \$650.00. On appeal, the landlord contends that the tenant entered into a new contract in 1986. However, any waiver by a tenant of rights under the Rent Ordinance is void as contrary to public policy.

MSC: To deny the appeal. (Gartzman/Alviar: 4-0)

D. 48 Cornwall St.

I001-58A

Claiming that the hearing officer (who is from a Chinese background) is biased against Chinese, the landlord appeals the hearing officer's determination that the property is not exempt on the basis of owner-occupancy.

MSC: To deny the appeal. (Alviar/Gartzman: 4-0)

E. 142 Clinton Park

I001-61A

The tenant challenged increases imposed when she married and her husband moved in and again when they had children. Contesting the hearing officer's determination that the increases are null and void, the landlord's attorney argues substantial compliance citing a state law which does not apply to San Francisco. The landlord's attorney also mistakenly claims improper retroactivity of the null and void provisions which were added to the law in 1982 and amended in 1984.

MSC: To deny the appeal. (Alviar/Gartzman: 3-1; Payne dissenting.)

F. 455 - 29th Street

I001-59A

The hearing officer found rent overcharges based on illegal increases imposed in 1982, 1985, 1986 and 1987. The landlord appeals on the basis of her lack of sophistication.

MSF: To deny the appeal. (Gartzman/Alviar: 2-2; Alviar and Payne dissenting.)

MSF: To accept the appeal and schedule a Board hearing. (Payne/Alviar: 2-2; Gartzman and Marshall dissenting.)

The Board resumed consideration of the appeal after Commissioner How appeared on the record.

MSC: To accept the appeal and schedule a Board hearing. (Payne/Alviar: 3-2; Gartzman and Marshall dissenting.)

G. 2040 Franklin

I001-60A

This case concerns 33 tenant petitions alleging a substantial decrease in housing services and/or the landlord's failure to repair and maintain the premises as required by law. The hearing officer granted a 3% rent decrease to correspond with the loss of management services, and denied the repair and maintenance claim as to the current annual increase. Based on a prior final Board decision on this property, the hearing officer also denied a banked increase from 1982. The landlord, who purchased the property after the prior decision, contends on appeal that management services have increased and that the conditions which justified initial denial of the 1982 increase have been corrected.

MSC: To excuse Commissioner Payne from consideration of this appeal. (Alviar/Gartzman: 5-0)

MSC: To deny this appeal. (Alviar/Gartzman: 4-1; Armstrong dissenting.)

H. 2994 Pine St.

I001-62A

Two tenants protested a rent increase from \$669.00 to \$1,200.00 per month proposed after the landlord learned of the death of another of the tenants. The now deceased tenant had filed a petition with the Rent Board in 1985 protesting a rent increase from \$620.00 to \$800.00. The prior decision, issued on May 16, 1985, found the rent increase null and void and further recommended that the owner require each new tenant to sign an agreement when they moved in such that when all of those tenants vacated, the property would be subject to an unlimited increase. The landlord appeals the recent decision which finds that the recent increase also is null and void.

MSC: To excuse Commissioner Payne from consideration of this appeal. (Alviar/Gartzman: 5-0)

MSC: To accept the appeal and schedule a Board hearing. (Armstrong/Alviar: 3-2; Gartzman and Marshall dissenting.)

I. 853 Alabama St.

I001-63A

The hearing officer determined rent overcharges due to illegal increases imposed in 1985 and 1986. The landlord appeals based on a computation error and on a change of ownership immediately before the hearing. The tenant agrees as to the error and will waive rent overcharges paid in September and October 1987.

MSC: To deny the appeal, but order both corrections as requested. (Gartzman/Marshall: 5-0)

J. 1306 & 1310 Minna St. I001-64A

The landlord failed to appear at the hearing on the tenants' petitions. On appeal, the landlord alleges that the property is exempt based on owner-occupancy.

MSC: To accept the appeal and remand the case to another hearing officer. (Payne/Alviar: 5-0)

V. Communications

The Board received a draft of its decision on the Parkmerced property rendered on October 20, 1987. The Board will continue its review and approval to the next Board meeting.

VI. Old Business

The Board discussed Commissioner Gartzman's revised draft for Notices of Appeal Hearings and approved the new Notice with modifications. The Board also discussed and reviewed the written guidelines for conducting an appeal hearing.

VII. Appeal Hearings

A. 2620 Laguna St. I001-27A & I002-44E

Staff informed the Commissioners that this case had been settled. The matter therefore was taken off calendar.

B. 3054 Lyon St. I001-34R through I001-36R
units 4, 5 & 6 (accepted October 13, 1987)

The appeal hearing commenced at 6:50 p.m. The tenants appeared with their attorney and the former landlord appeared on behalf of and with a representative for the current owner. The tenants contested the capital improvement increase of \$59.26 per month granted by the hearing officer. The tenants allege that they had objected to the work, as it was not necessary for reasons of health or safety; that the work did not benefit them, but rather increased the sale price of the property; that the allowance of imputed interest was not appropriate in this case; and that the hearing officer erred in making a determination regarding base rent.

Testimony at the appeal hearing focused primarily on the necessity of some of the capital improvement work. After the hearing concluded at 8:30 p.m., the Commissioners discussed the issues and made the following motions, the first of which failed and the second passed.

MSF: To affirm the Decision of the Hearing Officer, except for the capital improvement passthrough allowed for the hallway blinds. (Payne/Alviar: 2-3; Gartzman, How and Marshall dissenting.)

MSC: To grant the capital improvement passthrough for the roof work, plumbing work, fire extinguishers and intercom as allowed by the hearing officer, and to disallow a passthrough for the remaining items (blinds, exterior painting and other wiring work).
(Gartzman/How: 3-2; Alviar and Payne dissenting.)

VIII. Calendar Items

November 24, 1987

5 appeal considerations

Old Business:

approval of Parkmerced decision;

statute of limitations on null & void and banked increases

Staff report on 2 evictions:

254-A Precita H006-45E (originally scheduled for hearing)

230 Lowell St. #2B I002-89T

1 eviction hearing:

7:00 1868 Page G166-46E & G166-48E (accepted 10/6)

December 1, 1987

7 appeal considerations

1 eviction request for reconsideration

2 appeal hearings:

6:00 450 Alabama St. I001-24A (accepted 9/29)

7:30 999 Fell St. #1 I001-46A (accepted 11/10)

December 8, 1987 - Election Day - No Board Meeting

December 15, 1987

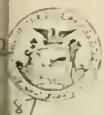
2 appeal hearings:

6:15 455 - 29th St. I001-59A (accepted 11/17)

7:15 2994 Pine St. I001-62A (accepted 11/17)

IX. Adjournment

President Marshall adjourned the meeting at 8:55 p.m.



NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,
November 24, 1987

State Building, 350 McAllister St. #1158

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals
- | | |
|----------------------------|-------------------------------|
| A. 784-A Dolores St. | I001-65A & I001-42R |
| B. 3188 1/2 - 16th St. | I001-66A & I001-44R |
| C. 899 - 14th St. | I001-43R |
| D. 129 & 131 Lower Terrace | I001-69A, I001-46R & I001-47R |
| E. 3152 - 24th St. | I001-68A |
- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions
- | | |
|---|---------------------|
| A. Report from Staff | |
| 1. 254-A Precita | H006-45E |
| (previously scheduled for hearing on 11/24) | |
| 2. 230 Lowell St. #2B | I002-89T |
| B. Hearing | |
| 6:00 1868 Page St. | G166-46E & G166-48E |
- IX. Old Business
- | |
|--|
| A. Approval of Parkmerced Decision (rendered 10/20/87) |
| B. Discussion of statute of limitations on null and void and on banking provisions |
- X. New Business
- XI. Calendar Items
- XII. Adjournment

1306A

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#2 11/24/87

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, November 24,
1987 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

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I. Call to Order

President Marshall called the meeting to order at 5:32 p.m.

II. Roll Call

Commissioners Present: Armstrong; Astle; Marshall;
Morales.
Commissioners not Present: Alviar; How; Payne; Waller.
Staff Present: Hernandez; Wicks.

Commissioner Gartzman appeared on the record at 5:34 p.m., and
Commissioner Carrico appeared at 6:10 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of November 17, 1987, as written.
(Astle/Armstrong: 4-0)

IV. Consideration of Appeals

A. 784-A Dolores Street I001-65A & I001-42R

The tenant involved in granted capital improvement increases appealed the costs of replacing the ceiling and walls in his bedroom. He maintained that he did not receive notice of the hearing or would have attended; and that these same exact costs were turned down by a previous hearing officer in 1985 after two hearings, with the decision upheld on appeal. The tenant maintains that the landlord is again trying to get reimbursement of the same costs for work already determined to be unnecessary.

MSC: To remand the case to the same hearing officer for review of the issues on appeal. If the capital improvements are factually the same as in the previous decision, the remand determination will conform to the prior decision. (Astle/Marshall: 4-0)

B. 3188 1/2-16th St.

Capital improvement passthroughs were appealed by a tenant. The hearing officer had disallowed a number of the costs since reimbursement was already granted on those items in a Rent Board decision two years previously. Other work to which the tenant objected

and which was found to be unnecessary was also denied, as were repairs. Although the tenant indicated an appeal statement would follow, none was received. The landlord also appealed, stating that any of the duplicative work was the result of the tenant's negligence in damaging the property, thereby making replacement necessary.

MSC: To uphold the hearing officer and deny both appeals.
(Astle/Morales: 3-1; Commissioner Armstrong dissenting)

C. 899-14th Street I001-43R

In the case at issue, the hearing officer allowed a 15% reduction in rent for decreased services, and a pending rent increase was denied for failure to repair. However, the tenants were not successful in showing improper rent increases. On appeal the tenants contend that the rebate should be larger due to a mathematical error and that they had proved other decreases for which no reduction was granted. In response, the landlord's attorney agreed on the mathematical error but disputed the other arguments presented on appeal.

MSC: To remand for the correction agreed upon by both sides,
and to deny the remainder of the appeal.
(Astle/Marshall: 4-0)

D. 129 & 131 Lower Terrace I001-69A, I001-46R, I001-47R

Both tenants and the landlord appealed the decision concerning capital improvements. The hearing officer disallowed one improvement since it was a repair and did not pass through the cost of the roof because of documented evidence that the work had not been done over a long time period, thereby resulting in deferred maintenance. The tenants appealed receipt of costs for other work they believed resulted from deferred maintenance, as shown by past BBI citations and tenant requests for repair. They protested other work which had already begun to deteriorate shortly after completion of the improvements. The landlord appealed the ruling of deferred maintenance and the other disallowance of passthroughs.

MSC: To uphold the hearing officer and deny both appeals.
(Morales/Astle: 4-0)

E. 3152-24th Street I001-68A

A landlord appealed a decision on capital improvements in which certain costs were denied: roof work was a repair; a refrigerator was merely a replacement appliance; back porch and stair work was an improvement; and some costs were above those found reasonable by the estimator. In addition, excessive rent increases were voided, with instructions for the proper banking of allowable increases. On appeal the landlord objected to denial of the capital improvements.

MSC: To uphold the hearing officer and deny the appeal.
(Morales/Astle: 4-0)

V. Communications

The following documents were received and reviewed by the Commissioners:

- A. A letter concerning the appeal at Lower Terrace.
- B. The appeal decision for Parkmerced and the eviction decision on 4 Peters Avenue, both of which were signed.
- C. An article from the Recorder describing a \$162,000 settlement in a wrongful eviction suit.
- D. A letter from the attorneys for the parties at 450 Alabama, requesting that the matter be taken off calendar while efforts are made at settling the issues. The Board passed the following motion:

MSC: To take the matter off calendar as requested.
(Morales/Astle: 4-0)

VI. DIRECTOR'S REPORT

Executive Director Ricardo Hernandez mentioned to the Board that some of the materials for the coming week's meetings might be delayed since the office would be closed for Thanksgiving on both November 26 and 27.

VII. Considerations of Allegations of Wrongful Evictions

A. Report from Staff

- 1. 254-A Precita H006-45E

After receiving an update on this case, it was the consensus of the Board to remove the matter from the hearing calendar. However, the Commissioners will instead write the landlords a letter, informing them that the Board would retain jurisdiction over this matter and monitor this case. Should the Board become aware that the owners were taking similar action in this case or any other, the Commissioners may exercise their option of scheduling a hearing with possible referral to the District Attorney or City Attorney.

- 2. 230 Lowell St. #2B G136-14E, 15E

The Commissioners were given a historical review of these cases, as well as the decision in a recent tenant petition (I002-89T), in which the landlord refused to make needed repairs. The Commissioners voted as follows:

MSC: To excuse Commissioner Carrico from this discussion.
(Carrico/ Astle: 5-0)

MSC: To refer the matter to the Building Inspection branch of the Department of Public Works; and to refer the cases to the City Attorney for civil action.
(Astle/Morales: 4-0)

VIII. OLD BUSINESS

- A. It was decided to continue the discuss of statutes of limitation and null and void to the December 1, 1987 meeting.
- B. The Board discussed hearing procedures and proposed changes on the Notice of Appel Hearing draft.

IX. CALENDAR ITEMS

December 1, 1987

6 appeal considerations

Allegations of Wrongful Eviction:

--2 eviction reconsiderations: 1222 York St. I001-74A

144 Dolores St. I001-41R

--Staff Report: 1518 1/2 Silver I002-11E

6:30 appeal hearing: 999 Fell #1 I001-46A (11/10)

Old Business: Discussion--statutes of limitation/null & void

December 8, 1987

NO MEETING--Election Day

December 15, 1987

4 appeal considerations

6:15 appeal hearings: 455-29th St. I001-59A (11/17)

7:15 2994 Pine St. I001-62A (11/17)

December 11, 1987

STAFF CHRISTMAS PARTY

X. ADJOURNMENT

President Marshall adjourned the meeting at 8:35 p.m.

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12/1/87

NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, December 1, 1987

State Building, 350 McAllister St. #1158

AGENDA

- I. Call to Order
 - II. Roll Call
 - III. Approval of the Minutes
 - IV. Consideration of Appeals
 - A. 765 Sutter St. I001-70A
 - B. 411 Eddy St. #10 I001-72A
 - C. 949 Lombard St. I001-73A
 - D. 2142 Sutter St. #1 I001-48R
 - E. 1732 Page St. #B & #D I001-45R & I001-71A
 - F. 1732 Page St. #A I001-67A
 - V. Communications
 - VI. Director's Report
 - VII. Remarks from the Public
 - VIII. Consideration of Allegations of Wrongful Evictions
 - A. Requests for Reconsideration
 - 1. 1222 York St. I001-74A
 - 2. 144 Dolores St. I001-41R
 - B. Report from Staff
 - 1518 1/2 Silver Ave. I002-11E
 - IX. Old Business
 - A. Discussion of Board appeal hearing procedures
 - B. Discussion of statute of limitations on null and void and on banking provisions
 - X. New Business
 - XI. Appeal Hearing
 - 6:30 999 Fell St. #1 I001-46A (accepted 11/10)
 - XII. Calendar Items
 - XIII. Adjournment
- 1310A

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, December 1,
1987 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

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SAN FRANCISCO
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President Marshall called the meeting to order at 5:37 p.m.

II. Roll Call

Commissioners Present: Alviar, Carrico, Marshall, Payne.
Commissioners Not Present: Armstrong, Astle, Gartzman, How,
Morales, Waller
Staff Present: Hernandez, Wicks

Commissioner Carrico went off the record at 6:36 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of November 24, 1987, as written.
(Carrico/ Alviar: 4-0)

IV. Consideration of Appeals

A. 765 Sutter St. I001-70A

This case, heard on remand from a landlord's appeal, was limited to the issue of whether it was necessary and possible to post the days and hours of the resident manager's availability. In the initial hearing the tenants had maintained that the former resident manager--available nearly 24 hours per day-- was replaced with the present manager, who is not available on a regular basis. On remand, the parties agreed that the manager would be available two hours each day, and phone numbers of other persons to call would be given each tenant. The hearing officer allowed the rent increase, stayed until the date the agreement went into effect. On appeal of the remand decision, the landlord protested the hours to which he had agreed, asked for refund of the filing fees for his appeal, and argued having to pay the tenants' filing fees for their initial petitions.

MSC: To uphold the hearing officer and deny the appeal.
(Alviar/Carrico: 4-0)

B. 411 Eddy St. #10 I001-72A

The manager of a twenty-two unit residential hotel appealed the hearing officer's decision granting a 10% decrease in rent for failure to repair the lock to the tenant's outer door. In order to enable the

disabled tenant back into her room when the door unexpectedly closed and locked upon her exit, the manager had to climb through a window and unscrew the door handle containing the lock. When the handle/lock later fell out, the manager has refused to replace it. The manager appeals the rent decrease, arguing that the lock was already unscrewed before this incident and that he should not have to repair it unless the tenant pays for the work.

MSF: To uphold the hearing officer and deny the appeal.
(Alviar/Marshall: 2-2; Commissioners Carrico and Payne dissenting)

MSC: To remand for a new hearing. (Carrico/Payne: 4-0)

C. 949 Lombard St. I001-73A

The landlord appeals a determination declaring the property subject to the jurisdiction of the rent Ordinance and nullifying banked rent increases. In 1984 the tenants were given a 20% banked increase. In 1985 the property was purchased by a limited partnership; shortly after the 50% general partner gave a 22% rent increase. The tenants paid the increase but asked the landlord to document it, which he did not. In early 1987 the general partner moved into the 3 unit building. Shortly thereafter, the tenants received a notice of increase to \$2,250.00. The hearing officer determined that the 20% banked increase by the previous owner nullified the current owner's 22% increase. Further, it was found that the general partner had not been in continual residence for six months and questioned whether the terms of the limited partnership entitled him to owner-occupancy status. On appeal the landlord insisted he was a victim of fraud and deceit in that: he was not told of the prior 20% increase and should not therefore be penalized, he was not asked to prove the nature of his ownership, and he can prove he has lived there over six months.

MSC: To accept the case for a hearing at the Board level.
(Carrico/Alviar: 3-1; Commissioner Marshall dissenting)

D. 2142 Sutter St. #1 I005-40T

On November 9, 1987 the tenant filed an appeal of a dismissal mailed March 9, 1987. The matter of a tenant petition had originally been scheduled for January 21, 1987 but was continued to March 4, 1987 because not all parties were given proper notice. The tenant did not appear at the March hearing and the hearing officer was informed he had vacated. On appeal the tenant said that the hearing officer had stated at the hearing that he had won, but because he did not get the dismissal until November, he had to vacate his unit and lose his welfare assistance.

MSC: To remand for a new hearing. (Carrico/Payne: 4-0)

E. 1732 Page Street, #1-A, B & D I001-45R & I001-71A
I001-67A

Both the landlord and one tenant appeal the hearing officer's ruling on a tenant petition for decreases in service. The tenants at issue live in individual rooms of a six-bedroom flat. Two other tenants act as the master tenants, including handling repair needs and utility payments. The landlord denies he received a written request for repairs in 1986; in 1987 BBI cited the landlord for lack of heat and 12 repair needs. Although the master tenants apparently did not make utility payments, the heating unit was also not functional. The hearing officer awarded a 20% reduction for lack of heat since June 1987 but denied the other items because of lack of proper notice to the landlord. On appeal the tenant insisted the evidence showed proper notice to the landlord on all items. The landlord's appeal questioned his responsibility for claims of the subtenants with whom he had no direct relationship, stated that the 20% reduction was computed to be 25%, and argued that the failure of the master tenants to pay utilities should not be charged to him.

A second hearing officer rendered a decision on a tenant petition involving another tenant living at this address. The decrease in service issues raised were essentially the same. A 20% reduction was granted for broken heater since July, and a 5% reduction was given for a broken window. On appeal the landlord denies responsibility to the subtenants, believes he is not accountable for utilities, and denies responsibility to provide heat.

MSC: To accept the appeal for hearing at the Board level,
consolidated with cases I001-45R and I001-71A.
(Carrico/Alviar: 4-0)

V. Communications

The Commissioners received the following communications:

- A. Letters from the landlords or their representatives at 1090 Hampshire #1 and #2 and 1011 Washington St. #305, stating that the eviction notices or Unlawful Detainer actions had been withdrawn. Both cases had been reviewed by the Board.
- B. A response on the appeal for 1732 Page.
- C. The invitation for the Rent Board Staff and Commissioner Christmas party on December 11, 1987.
- D. The appeal decision for 730 Leavenworth, which was approved.

VI. Director's Report

- A. Executive Director Ricardo Hernández explained a memo from City Attorney Louise Renne.

the Board Minutes of December 1, 1987

andez informed the Board they would be receiving an
on to an appreciation dinner for the Mayor.

ation of Allegations of Wrongful Eviction

for Reconsideration

2 York Street

I001-74A

landlord requested reconsideration of an eviction
mary and recommendation, maintaining that he had sought,
good faith, the termination of tenancy for his occupancy.

C: To deny the request for reconsideration but resolve to
take no further action on the matter.
(Payne/Alviar: 4-0)

4 Dolores St.

I001-41R

because the Commissioners did not receive the case
aterials, this matter will be continued to December 15,
987.

E Report

1/2 Silver Ave.

I002-11E

ey began in 1981 under a previous owner. In June 1986 the
ers sent a legally defective and invalid notice of
a of tenancy for nonpayment of rent. The tenants had already
previous owner, and the new landlords were not yet owners of
n this notice was sent. For several months the owner visited
ty and insisted the tenants move, despite proper payment of
one occasion the owner indicated his brother would move into
In January 1987 the landlord demanded the tenants vacate but
ey could remain if they would increase their rent of \$209.00.;
ts offered \$300 but the landlord required \$350--a 66%
--which the tenants paid for some time.

1987 the landlord turned off the gas without informing the
to work on the line (without permits). The tenants called
ich cited the landlord for various violations. In a
ation with the tenants, the owner threatened to keep the gas
ff and to have his father--who had recently arrived as an
at--move into their unit. Two days later the tenants received
ion notice for a relative of the landlord; both the notice and
sequent UD were invalid or filled with factual errors. The gas
turned back on for over a month. In the Rent Board hearing the
d's father indicated he had no knowledge that his son planned
to live in the tenants' unit; the landlord's testimony was
ictory, inaccurate, and untrustworthy.

EVALUATION AND RECOMMENDATION: The landlord has clearly attempted to evict the tenants illegally, both as to cause and procedure. There is also evidence of harassment and retaliation.

MSC: The Eviction Unit is asked to inquire into the status of the UD; if the landlord is going forward with the court action, the Board will hear the case with the possibility of asking for intervention in the UD action.
(Payne/Alviar: 4-0)

IX. Old Business

- A. The Commissioners determined that the topic of hearing procedures has been fully handled.
- B. Commissioners Carrico and Marshall will distribute suggested language for review and discussion December 15 on the issues of statutes of limitation on banking and null & void provisions..

X. New Business

The Board discussed methods for dealing with unruly participants who come before them in hearings.

XI. Calendar Items

December 8, 1987

NO MEETING--Election Day

December 15, 1987

4 appeal considerations

appeal hearings: 6:15--455-29th St. I001-59A (11/17/87)
7:15--2994 Pine St. I001-62A (11/17/87)

Old Business: Statutes of Limitation/Null and Void

December 11, 1987

STAFF CHRISTMAS PARTY

December 22, 1987

3 appeal considerations

appeal hearings: 5:45--949 Lombard I001-73A (12/1/87)
6:45--1732 Page #1-A, B, D consolidated cases
I001-45R, I001-67A, I001-71A (12/1/87)

December 29, 1987

NO MEETING

XII. Appeal Hearing

999 Fell Street, #1

I001-46A

The landlord appealed the remand decision granting a 10% rent reduction for decreased housing services. Because of the landlord's computer error, the tenant's rent had been reduced by 35%. The landlord argued that the inadvertant reduction more than compensated for any service decrease suffered by the tenant.

A hearing was scheduled for 6:30, began on the record at 6:38 p.m., and was closed at 7:03 p.m. The tenancy began in November 1985 at a rent of \$475.00. In late August 1986 the tenant received notice of a rent decrease, effective October 1986, for a total rent of \$308.21. Upon inquiring about the decrease, the tenant was told by the property manager to pay the amount in the notice, and this lower amount was accepted. In a court action on this matter, the judge held that the tenant's base rent was \$308.21. The landlord's attorney argued before the Commissioners that the 35% mistaken rent reduction more than compensated the tenant, and that an additional decrease in service reduction should not be granted.

After reviewing the testimony and evidence, the Commissioners voted as follows:

MSC: Considering the equities of the case, and in light of the 35% reduction already in place, the hearing officer's decision is vacated and the base rent is set at \$308.21; incorporated in this amount is compensation for any decrease in service suffered. (Alviar/Payne: 3-0)

XIII. Adjournment

President Marshall adjourned the meeting at 7:04 p.m.



NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,
December 15, 1987

State Building, 350 McAllister St. #1158

AGENDA

- I. Call to Order
II. Roll Call
III. Approval of the Minutes
IV. Consideration of Appeals

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- | | |
|-----------------------|----------|
| A. 2407 Octavia #3 | I001-49R |
| B. 67 Mirabel Ave. #A | I001-76R |
| C. 309 Steiner #B | I001-77A |
| D. 364 6th Avenue | I001-75A |

- V. Communications
VI. Director's Report
VII. Remarks from the Public
VIII. Consideration of Allegations of Wrongful Evictions

A. Report from Staff

- | | |
|-------------------|---------------|
| 1. 612 Steiner #3 | I002-29E, 30E |
|-------------------|---------------|

- IX. Old Business
Statutes of limitations on null and void and Banking Provisions.

X. New Business

XI. Appeal Hearing

- | | |
|-----------------------|---------------------------|
| 6:15 A. 455 29th St. | I001-59A (accepted 11/17) |
| 7:15 B. 2994 Pine St. | I001-62A (accepted 11/17) |

XII. Calendar Items

XIII. Adjournment

1319A



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15/87
MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, December 15,
1987 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

DOCUMENTS DEPT.

DEC 21 1987

SAN FRANCISCO
PUBLIC LIBRARYI. Call to Order

President Marshall called the meeting to order at 5:34 p.m.

II. Roll Call

Commissioners Present: Astle; Gartzman; Marshall; Payne.
Commissioners not Present: Alviar; Armstrong; Waller.
Staff Present: Hernandez; Wolf.

Commissioner Carrico appeared on the record at 5:35 p.m.; Commissioner Morales appeared at 5:36 p.m.; and Commissioner How at 5:50 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of December 1, 1987 as written.
(Astle/Marshall: 5-0)

IV. Consideration of Appeals

A. 8407 Octavia #3

I001-49R

The tenant appeals the hearing officer's certification of certain capital improvements performed on the grounds that: the work done to the bathroom was not necessary for reasons of health or safety; the work was in the nature of maintenance, and not capital improvements; and the cost of the work should not be assessed to this unit only as substantial portions of the work were performed to rectify problems in another unit.

MSF: To deny the appeal. (Payne/Carrico: 2-3; Astle, Marshall, Morales dissenting)

MSC: To remand this case to a new hearing officer for a new hearing for clarification regarding the work that was done; the units that were benefited; and the tenant's objections to the work performed. (Morales/Astle: 4-1; Payne dissenting)

B. 67 Mirabel Avenue #A

I001-76R

The landlord, who did not attend the properly noticed hearing, appeals the hearing officer's decision granting a rent reduction for the loss of a working shower and refunding overcharges due to illegal rent

increases. The landlord maintains that he had requested a postponement of the hearing due to a death in the family, and that his absence from the hearing resulted in factual inaccuracies that formed the basis for the decision.

MSC: To remand this case to the same hearing officer for a new hearing. (Astle/Carrico: 5-0)

C. 309 Steiner #B

I001-77A

The landlord appeals the hearing officer's decision refunding overcharges resulting from a \$100.00 rent increase and the compounding of otherwise allowable banked increases. The landlord's position is that the \$100.00 imposed was the result of the termination of management services previously provided by the tenant and that repayment would present a substantial hardship to the landlord.

MSF: To deny the appeal. (Morales/Marshall: 2-3; Astle, Carrico, Payne dissenting)

MSC: To accept this case for a hearing before the Commissioners on the issues raised in the appeal (Payne/Carrico: 3-2; Marshall, Morales dissenting)

D. 364 6th Avenue

I001-75A

The landlord appeals the hearing officer's decision on remand. The original decision had granted a rent reduction due to loss of storage space and disallowed a rent increase due to failure to repair. The case was remanded for clarification of the failure to maintain issue and to determine whether decreased service items had been restored. On remand, the hearing officer found no decreased housing services, but a continuing failure to repair. On appeal, the landlord objects to the use of the word "tenant" to describe a long-term co-occupant of the unit.

MSC: To deny the appeal. (Astle/Morales: 5-0)

V. Hearing

A. 455 29th Street

I001-59A

The appeal hearing commenced at 6:29 p.m. The tenant appeared with her representative; the landlord appeared and represented herself. The hearing officer found rent overcharges based on illegal increases imposed in 1982, 1985, 1986 and 1987. The landlord appealed, claiming a lack of sophistication in these matters, and requested that only the amounts in excess of the allowable amounts be refunded.

At the hearing, the tenant produced a statement from another tenant in the building who had filed a Tenant Summary Petition with the Rent Board and, subsequently, had received the increases allowed by law. After the conclusion of the hearing at 7:00 p.m., the Commissioners made the following motion:

MSC: To uphold the hearing officer's decision and deny the appeal. (Astle/Morales: 4-0; Payne dissenting)

VI. Communications

The Board received the following communications:

A. Letters from the parties regarding the successful resolution of eviction case numbers I002-97E and G004-06E.

B. The landlord's request for postponement of the appeal hearing for 949 Lombard (I001-73A), scheduled for December 22, 1987.

MSC: To deny the postponement request due to no statement of good cause. (Astle/Payne: 5-0)

C. Statements from two parties regarding appeal considerations scheduled for December 22, 1987.

D. A set of protocols given to Rent Board hearing officers.

E. The Mayor's summary and review of the Rent Board's 1986-87 MBO Report.

F. A letter from the parties' attorneys in the case at 450 Alabama (I001-24A) confirming the removal of this case from the Board's hearing calendar for December 1, 1987 pending settlement negotiations.

G. A letter from the landlord's attorney regarding the case at 2994 Pine (I001-62A) stating that, as the tenants have vacated the premises, there is no need for a Board hearing on this matter. The case was therefore removed from tonight's hearing calendar.

H. Board decisions on appeal for the cases at 999 Fell #1 (I001-46A), 275 Lexington #A (I001-28A) and 3054 Lyon (I001-34R through I001-36R). The Fell Street decision was approved by the Board and signed by the President, the Lexington Street case was approved with changes and the Lyon Street case modifications will be incorporated by staff and the revised decision will be brought back to the Commissioners.

VII. Director's Report

The Executive Director reported, once again, the sub-Arctic conditions at the Rent Board offices and the latest progress toward obtaining some form of heat.

The Director and the Commissioners also discussed how enjoyable the Rent Board Christmas party held on December 11th was, and the Commissioners unanimously passed a resolution thanking hearing officer Rhoda Wilkinson and her husband for their wonderful hospitality.

VIII. Evictions

The Commissioners were informed that the reconsideration request for the case at 144 Dolores Street has been withdrawn and the staff report regarding the case at 612 Steiner, scheduled for tonight's meeting, will be held and consolidated with the landlord's request for reconsideration.

IV. Old Business

Discussion of a statute of limitations on the null and void and banking provisions of the Ordinance will be scheduled for some time in the middle of January 1988.

X. New Business

The election of officers will be calendared for the end of January 1988.

XI. Calendar

December 22, 1987

5 appeal considerations
4 eviction case summaries
2 appeal hearings:

5:45 949 Lombard Street

I001-73A (accepted 12/1/87)

6:45 1732 Page #1-A,B,D

I001-45R, I001-67A and I001-71A
(accepted 12/1/87)

December 29, 1987

No meeting

January 5, 1988

5 appeal considerations
Appeal hearing:

6:00 309 Steiner #B

I001-77A (accepted 12/15/87)

XII Adjournment

President Marshall adjourned the meeting at 7:25 p.m.



≡ NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,

≡ December 22, 1987

State Building, 350 McAllister St. #1158

AGENDA

DOCUMENTS DEPT.

DEC 21 1987

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I. Call to Order

II. Roll Call

III. Approval of the Minutes

IV. Consideration of Appeals

A.	2293 Washington St. #4	I001-78A
B.	185 Leland Ave. #A	I001-79A
C.	3100 Fulton St.	I001-80A
D.	413-415 Scott St.	I001-81A
E.	731 - 47th Ave. #2	I001-50R

V. Communications

VI. Director's Report

VII. Remarks from the Public

VIII. Consideration of Allegations of Wrongful Evictions

Report from Staff

A.	2351 Washington St. #104	H007-67E
B.	322-324 Brazil	I001-94E & I001-95E
C.	1272 York St.	I002-02E
D.	1155 Hayes St. #3	I002-53E

IX. Old Business

X. New Business

XI. Appeal Hearings

5:45	A.	949 Lombard St.	I001-73A (accepted 12/1/87)
6:45	B.	1732 Page St.	I001-45R, I001-67A & I001-71A
		#1-A, #1-B & #1-D	(accepted 12/1/87)

XII. Calendar Items

XIII. Adjournment

1331A



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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, December 22,
1987 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Marshall called the meeting to order at 5:30 p.m.

II. Roll Call

Commissioners Present: Astle; Marshall; Morales.
Commissioners not Present: Alviar; Armstrong; Gartzman; How;
Waller.
Staff Present: Hernandez; O'Hearn.

Commissioner Payne appeared at 5:32 p.m. and went off the record at
7:20 p.m. Commissioner Carrico appeared at 5:34 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of December 15, 1987 as
corrected on page 3. (Astle/Morales: 3-0)

IV. Consideration of Appeals

A. 2293 Washington St. #4 I001-78A

The landlord appeals the hearing officer's decision finding that the
property continues to consist of 5 residential units after the landlord
removed a door attempting to convert the property back to its original
4 units. On appeal the landlord claims to have city approval for
removal of the kitchen by making it into an additional bathroom for
another unit.

MSC: To deny the appeal. (Payne/Morales: 4-0)

B. 185 Leland Ave. #A I001-79A

The landlord failed to appear at the hearing or to file a written
excuse of non-appearance until more than 3 weeks after the mailing of
the notice of hearing. His appeal indicates that he has temporarily
moved to the Los Angeles area due to his wife's poor health.

MSC: To accept the appeal and remand the case for a hearing
before another hearing officer. (Payne/Astle: 4-0)

C. 3100 Fulton St.

I001-80A

The landlord appeals the denial of an additional operating and maintenance increase. The hearing officer found insufficient cost increases based on the disallowance of the landlord's claim of self insurance for earthquake damage. The hearing officer granted capital improvement increases ranging from \$12 to \$20 per month.

MSC: To deny the appeal. (Morales/Astle: 5-0)

D. 413-415 Scott St.

I001-81A

The landlord objects to the hearing officer's denial of some of the claimed capital improvements. He asserts that his testimony makes up for the lack of documentation for those costs, and he now has located some of the documentation. He also requests a correction on overcharge calculations based on entitlement to a 7% banked increase for January 1984, instead of a 4% banked increase.

MSC: To correct the overcharge calculations and to deny the appeal without prejudice to the filing of another petition. (Carrico/Payne: 5-0)

E. 731 - 47th Ave. #2

I001-50R

One of the tenant appeals based on his inability to attend the hearing on his landlord's petition for capital improvement increases. He claims that the increases for painting and locks should have been denied on the ground that they were unnecessary improvements to the building.

MSC: To excuse Commissioner Carrico from consideration of this appeal. (Payne/Astle: 5-0)

MSC: To deny the appeal. (Payne/Astle: 4-0)

V. Communications

The Board received the following communications:

- A. two letters from the landlord appellant for I001-78A, 2293 Washington St., considered above;
- B. Rent Board statistics for the months of October and November 1987, indicating the continual increase of capital improvement petitions filed with the Rent Board;
- C. a memo from the Deputy Director regarding the amendments to the Rent Ordinance;
- D. a memo from the Deputy City Attorney regarding the favorable Superior Court judgment in Hozz v. Rent Board; and

- E. written appeal decisions for 3054 Lyon St. (Nos. I001-34R through I001-36R heard on November 17, 1987) and 455 - 29th St. (No. I001-59A heard on December 15, 1987), both of which were approved by the Board.

VI. Appeal Hearings

A. 949 Lombard St.

I001-73A

On December 15, 1987 the Board denied the landlord's request for postponement of this appeal hearing scheduled at 5:45 p.m. Since the landlord had not appeared by 5:55 p.m., the Board asked the Executive Director to telephone the landlord and continued the matter until later after consideration of other agenda items, except for the other appeal hearing, below.

At 6:06 p.m. the director reported his telephone conversation with the landlord at the landlord's office on Lombard St. near Leavenworth St. The landlord told the director that he had just arrived in town, there was too much traffic to come to the hearing, he would be leaving town again soon, and his attorney could not come to the hearing.

When he renewed his request for a postponement of the hearing, the director told him that the Commissioners might not grant his request and if not, would deny his appeal if he failed to appear. The landlord then said he would come to the hearing. He appeared at 6:25 p.m. as the Commissioners were commencing the proceedings.

When the landlord renewed his request for a postponement of the hearing, the Board approved the following motion:

MSC: To deny the landlord's request for postponement.
(Astle/Payne: 5-0)

The hearing therefore continued on the landlord's appeal of the determination that this three-unit property is subject to the jurisdiction of the Rent Board. The property is owned by a limited partnership and the general partner occupies, though not in continual residence, one of the units at the property. Both of the tenants who had appeared at the scheduled time, as well as the landlord, testified under oath.

After the hearing concluded, the Commissioners discussed the case and decided as follows:

MSC: To affirm the hearing officer's decision.
(Payne/Astle: 5-0)

MSC: To find that the landlord has wrongfully evicted tenants from this property. (Payne/Astle: 5-0)

The Commissioners then went into executive session pursuant to Government Code Section 54956.9(a) to discuss potential litigation and make the following motions:

MSC: To refer the matter to the District Attorney and to the City Attorney for investigation of apparent wrongful eviction and unfair business practices, as well as for potential liability for perjury. (Astle/Payne: 5-0)

B. 1732 Page St. #1A, B & D I001-456R, I001-67A & I001-71A

The hearing commenced on these consolidated appeals of two decisions at 7:15 p.m. The tenant of #1-B and the owner's representative appeared. The tenants of #1-A and #1-D failed to appear or to submit a written excuse for non-appearance. The tenants at issue live in individual rooms of a six-bedroom flat. Two other tenants, who sometimes reside there, act as the master tenants, including handling repair needs and utility payments.

After the parties' initial summaries of their positions, Commissioner Payne requested a motion to excuse him from this case.

MSC: To excuse Commissioner Payne from consideration of this appeal. (Astle/Carrico: 5-0)

With regard to units #1-B & #1-D, the hearing officer granted a 20% reduction for lack of heat since June 1987, but denied any further reduction for other items because of lack of proper notice to the actual owner. On appeal, the tenant of #1-D insisted the evidence showed proper notice to the landlord on all items. With regard to the decision affecting #1-A, the hearing officer also granted a 20% reduction for the broken heater since July, and a 5% reduction for a broken window. The owner denies responsibility to the subtenants, believes he is not accountable for utilities, and denies responsibility to provide heat.

After the hearing concluded the Commissioners discussed the case and voted to affirm the hearing officers' decisions in part.

MSC: To grant a 20% rent decrease for the period that the heater was not working, beginning the last week of September 1987, and to grant a 5% decrease for unit #1-A for the broken window. (Astle/Carrico: 4-0)

VII. Consideration of Wrongful Evictions

Report from Staff

A. 2293 Washington St. #4	I001-78A
B. 185 Leland Ave. #A	I001-79A
C. 3100 Fulton St.	I001-80A
D. 413-415 Scott St.	I001-81A
E. 731 - 47th Ave. #2	I001-50R

Since the Board had not received materials on the eviction cases, they are continued to the meeting of January 12, 1988.

VIII. Calendar Items

December 29, 1987 - No meeting.

January 5, 1988

5 appeal considerations

1 appeal hearing:

6:00 309 Steiner #B

I001-77A (accepted 12/15/87)

January 12, 1988

7 appeal considerations

1 eviction reconsideration

4 eviction case summaries

January 19, 1988

5 appeal considerations

Old Business: Statute of limitations on null & void and banking.

IX. Director's Report

The Executive Director reported that the Board offices finally have some heat. He also noted that Commissioner Armstrong resigned effective December 30, 1987. Finally, the Director reported that the City may consider making landlords pay the parking tax when they rent their garages.

X. Adjournment

President Marshall adjourned the meeting at 8:05 p.m.

